

EXHIBIT S

Deposition of Michelle McLeod

		Page 1	Page 3
1	UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS 2 HOUSTON DIVISION 3		
4	UNITED STATES OF AMERICA,) Civil Action Plaintiff,) No. 4:18-CV-00644 5 vs.) 6 CITY OF HOUSTON,) Defendant.) 7		
8	JANE DRAYCOTT AND PAULA) KEYES,) 9 Plaintiff-Intervenors,) 10 vs.) 11 CITY OF HOUSTON,) Defendant.) 12		
13	*****		
14	FED. R. CIV. P.30(B)(6) DEPOSITION OF CITY OF HOUSTON (FIRE MARSHAL MICHELLE McLEOD) 16 August 15, 2019 17 *****	14	EXHIBITS
18	FED. R. CIV. P.30(B)(6) DEPOSITION OF CITY OF HOUSTON (FIRE MARSHAL MICHELLE McLEOD), produced as a witness at 19 the instance of the Plaintiff and duly sworn, was taken in the above-styled and numbered cause on Thursday, August 20 15, 2019, from 2:33 p.m. to 4:46 p.m., before JAMES M. PLAIR, Certified Shorthand Reporter in and for the State 21 of Texas, reported by computerized stenotype machine at the CITY OF HOUSTON LEGAL DEPARTMENT, 900 Bagby, Third 22 Floor, Houston, Texas 77002, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record 23 or attached hereto. 24 Job No. 408841 25	15 16 17 18 19 20 21 22 23 24 25	(None offered)
		Page 2	Page 4
1	APPEARANCES		
2	REPRESENTING PLAINTIFF UNITED STATES OF AMERICA: 3 Mr. Jeremy P. Monteiro 4 Mr. Hector F. Ruiz UNITED STATES DEPARTMENT OF JUSTICE 5 EMPLOYMENT LITIGATION - CIVIL RIGHTS DIVISION 950 Pennsylvania Avenue, N.W. 6 Washington, D.C. 20530-0001 202.616.9100 Telephone 7 202.514.1005 Fax Jeremy.Monteiro@usdoj.gov Email 8 Hector.Ruiz@usdoj.gov Email 9 and 10 Ms. Elizabeth F. Karpati UNITED STATES DEPARTMENT OF JUSTICE - U.S. ATTORNEY'S 11 OFFICE 1000 Louisiana Street, Suite 2300 12 Houston, Texas 77002 713.567.9767 Telephone 13 Elizabeth.Karpati@usdoj.gov Email 14 REPRESENTING DEFENDANT CITY OF HOUSTON: 15 Ms. Deidra N. Sullivan 16 CITY OF HOUSTON LEGAL DEPARTMENT 900 Bagby Street, Third Floor 17 Houston, Texas 77002-2527 832.393.6457 Telephone 18 832.393.6259 Fax Deidra.Sullivan@houstontx.gov Email 19 20 REPRESENTING PLAINTIFFS-INTERVENORS JANE DRAYCOTT AND PAULA KEYES: 21 Mr. S. Nasim Ahmad 22 Mr. Dwain Gregory Capodice II AHMAD & CAPODICE, P.L.L.C. 23 24900 Pitkin Road, Suite 300 The Woodlands, Texas 77386 24 832.767.3207 Telephone NAhmad@cline-ahmad.com Email 25		
1	MR. MONTEIRO: Good afternoon, Chief 2 McLeod.		
3	THE WITNESS: Good afternoon.		
4	MR. MONTEIRO: How are you, today?		
5	THE WITNESS: I'm well. Thank you.		
6	MR. MONTEIRO: Good.		
7	I'm just going to take care of one 8 housekeeping matter, which probably doesn't pertain to 9 you, before we begin.		
10	So with respect to topic 4(a) on Exhibit 2, 11 Deposition Exhibit 2, which states: "Defendant's decision 12 to assess the effectiveness of HFD's policies, practices 13 and training related to workplace harassment and 14 discrimination," does the City have a witness? Is the 15 City offering a witness on this topic?		
16	MS. SULLIVAN: No, to the extent that it 17 would be seeking attorney-client or work product 18 privilege.		
19	MR. MONTEIRO: Okay. So just to kind of 20 ferret out the nature of that objection, I'm going to 21 proffer a handful of questions, and if you can let us -- 22 let me know whether the City will -- can present someone 23 on that or will maintain its objection.		
24	MS. SULLIVAN: And so present someone to 25 say that it was out of conversations --		

<p>1 MR. MONTEIRO: No.</p> <p>2 MS. SULLIVAN: -- with --</p> <p>3 MR. MONTEIRO: No. Whether the City would</p> <p>4 permit a witness to answer my question or assert a</p> <p>5 privilege.</p> <p>6 MS. SULLIVAN: Okay.</p> <p>7 MR. MONTEIRO: All right.</p> <p>8 So why did the City decide to assess the</p> <p>9 effectiveness of the HFD's policies, practices and</p> <p>10 training related to workplace harassment and</p> <p>11 discrimination in 2009?</p> <p>12 MS. SULLIVAN: Based on the information</p> <p>13 available to me at that time, my understanding was that</p> <p>14 that was based on communications with the City Attorney at</p> <p>15 that time. So are you --</p> <p>16 MR. MONTEIRO: So you would not permit a</p> <p>17 witness to answer that question based on privilege. Is</p> <p>18 that correct?</p> <p>19 MS. SULLIVAN: That -- that would be my</p> <p>20 understanding of that, yes.</p> <p>21 MR. MONTEIRO: Well, I mean --</p> <p>22 MS. SULLIVAN: That's --</p> <p>23 MR. MONTEIRO: -- is that your objection?</p> <p>24 MS. SULLIVAN: Yes --</p> <p>25 MR. MONTEIRO: Okay. Thank you.</p>	Page 5	<p>1 Station 54 in 2009?</p> <p>2 MS. SULLIVAN: I can present somebody that</p> <p>3 can answer that question.</p> <p>4 MR. MONTEIRO: Was the assessment requested</p> <p>5 in response to Ms. Draycott's complaints regarding the</p> <p>6 events that occurred at Station 54 in 2009?</p> <p>7 MS. SULLIVAN: I can present somebody that</p> <p>8 can answer that question.</p> <p>9 MR. MONTEIRO: And was the assessment</p> <p>10 requested an attempt to prevent the reoccurrence of any of</p> <p>11 the events complained about by Ms. Draycott or Ms. Keyes</p> <p>12 at Station 54 in 2009?</p> <p>13 MS. SULLIVAN: I can present somebody that</p> <p>14 can answer that question.</p> <p>15 MR. MONTEIRO: Okay.</p> <p>16 MS. SULLIVAN: Okay.</p> <p>17 MR. MONTEIRO: Thank you for the</p> <p>18 clarification.</p> <p>19 MS. SULLIVAN: Yes.</p> <p>20 MR. MONTEIRO: We'll have to confer</p> <p>21 further, then, when we do that.</p> <p>22 MS. SULLIVAN: Okay.</p> <p>23 MR. MONTEIRO: I assume Chief McLeod is not</p> <p>24 the person that -- is not prepared to answer those</p> <p>25 questions today.</p>	Page 7
<p>1 MS. SULLIVAN: -- that would be my</p> <p>2 objection.</p> <p>3 MR. MONTEIRO: Was the assessment requested</p> <p>4 as part of the City's response to any of the events that</p> <p>5 occurred at Station 54 in 2009?</p> <p>6 MS. SULLIVAN: I don't have any information</p> <p>7 that would suggest that, but I could -- Uhm, I potentially</p> <p>8 could present somebody to answer that question.</p> <p>9 MR. MONTEIRO: So you will not claim that</p> <p>10 that was privileged?</p> <p>11 MS. SULLIVAN: No.</p> <p>12 MR. MONTEIRO: You wouldn't assert</p> <p>13 privilege on that?</p> <p>14 MS. SULLIVAN: No.</p> <p>15 MR. MONTEIRO: Was the assessment requested</p> <p>16 as part of the City's remedial action as a result of any</p> <p>17 of the events that occurred at Station 54 in 2009?</p> <p>18 MS. SULLIVAN: I could -- I could present</p> <p>19 somebody.</p> <p>20 You know what? I -- I think, now that I</p> <p>21 know what you're asking, I think I can present somebody</p> <p>22 to -- to answer those questions.</p> <p>23 MR. MONTEIRO: Was the City -- Was the</p> <p>24 assessment requested as part of the City's corrective</p> <p>25 action as a result of any of the events that occurred at</p>	Page 6	<p>1 MS. SULLIVAN: No, not today. I have not</p> <p>2 put anything in front of her that would help you.</p> <p>3 MR. MONTEIRO: Fair enough. Okay.</p> <p>4 FIRE MARSHAL MICHELLE McLEOD,</p> <p>5 having first been duly sworn, was examined and testified</p> <p>6 as follows:</p> <p>7 EXAMINATION</p> <p>8 BY MR. MONTEIRO:</p> <p>9 Q. Chief, my name is Jeremy Monteiro. I'm an</p> <p>10 attorney with the Department of Justice and I'm going to</p> <p>11 be taking your deposition today.</p> <p>12 A. Okay.</p> <p>13 Q. Have you had your deposition taken before?</p> <p>14 A. I have.</p> <p>15 Q. Okay.</p> <p>16 A. In re- -- Not in regard to this.</p> <p>17 Q. Understood.</p> <p>18 Just when was the last -- when was the last</p> <p>19 time you were deposed?</p> <p>20 A. Approximately three years ago.</p> <p>21 Q. Okay. I'm just going to go over the ground</p> <p>22 rules for the deposition, just so you will understand how</p> <p>23 we'll proceed today. Is that okay?</p> <p>24 A. Okay.</p> <p>25 Q. If you don't understand any of my questions,</p>	Page 8

<p>1 please state so and I'll my best to rephrase them. Is 2 that okay?</p> <p>3 A. That is okay.</p> <p>4 Q. And if you don't hear my question, let me know 5 and I'll also restate my question or have the court 6 reporter read it back to you.</p> <p>7 A. Okay.</p> <p>8 Q. To -- The court reporter's taking everything 9 down that you say and I say. So in order to ensure a 10 clean transcript, you need to make sure to respond with -- 11 You need to make sure to wait to respond to my question 12 until I'm finished.</p> <p>13 A. Okay.</p> <p>14 Q. Is that okay?</p> <p>15 A. Yes.</p> <p>16 Q. And I will do the same for you and do my best 17 not to cut you off.</p> <p>18 A. Okay.</p> <p>19 Q. If you need a break -- I don't expect us to be 20 here very long, but if you need a break, please let me 21 know and we'll do our best to accommodate you.</p> <p>22 A. Okay.</p> <p>23 Q. The only caveat I will give is that, if there is 24 a question pending, I'll ask that you an answer the 25 question before we take our break.</p>	<p>Page 9</p> <p>1 representative for purposes of this deposition?</p> <p>2 A. Yes.</p> <p>3 Q. As part of your role as being the City's 4 representative, did you spend time preparing for this 5 deposition?</p> <p>6 A. Yes.</p> <p>7 Q. How long did you spend preparing for this 8 deposition?</p> <p>9 A. Approximately three hours.</p> <p>10 Q. And can you tell me what you -- everything you 11 did to prepare for your deposition today?</p> <p>12 A. Reviewed the Thompson Horton assessment and the 13 Excel spreadsheet, with the responses.</p> <p>14 Q. And --</p> <p>15 A. And --</p> <p>16 Q. I'm sorry. Go ahead.</p> <p>17 A. And also pulled a couple of other documents that 18 were related.</p> <p>19 Q. Can you identify what those document are, 20 sitting here today?</p> <p>21 A. One was a manual that we presented in our 22 newly-promoted officers training with HR; that's where the 23 Captains, Senior Captains and the District Chiefs that 24 were newly-promoted.</p> <p>25 Q. What is the manual? What does it contain?</p>	Page 11
<p>1 A. Okay.</p> <p>2 Q. And, unless the City's attorney instructs you 3 not to answer a question, please answer all my questions 4 today. Is that okay?</p> <p>5 A. Yes.</p> <p>6 Q. You're under oath. Do you understand what 7 testifying truthfully means?</p> <p>8 A. Yes.</p> <p>9 Q. And is there any reason that prevents you from 10 testifying fully and truthfully today?</p> <p>11 A. No.</p> <p>12 Q. Okay. Now, you understand that -- Let me step 13 back for a minute.</p> <p>14 Can you give me your business address?</p> <p>15 A. 1801 Smith Street, Seventh Floor, Houston, 16 Texas.</p> <p>17 Q. The ZIP code?</p> <p>18 A. 77002.</p> <p>19 Q. Thank you.</p> <p>20 Do you understand that you have been 21 designated as the City as its representative to answer 22 certain questions on behalf of the City for this 23 litigation?</p> <p>24 A. Yes.</p> <p>25 Q. And you have agreed to be the City's</p>	<p>Page 10</p> <p>1 A. It has 1-50, the Mayor's Executive Order 1-50; 2 1-39, the Office of Inspector General; 1-18, I believe 3 that's the social media policy; the complaint guideline, 4 the -- like, where to file a complaint and the designated 5 department reps contact numbers, EEOC contact numbers, and 6 Office of Inspector General contact.</p> <p>7 Q. So are these basically -- Is it basically like a 8 training manual?</p> <p>9 A. It's a training manual because it has the 10 scenarios in it as well, complaint flowchart. So it's 11 what we gave to them to take with them, and a copy of the 12 PowerPoint that we presented.</p> <p>13 Q. And is this a specific version of that manual?</p> <p>14 Is it a current version? Is it a version that was 15 presented some years ago? Do you know?</p> <p>16 A. It's changed over time. We changed out the -- 17 I'm not doing -- I'm not in that office anymore, but when 18 we were or were presenting the classes Wanda Andrews, who 19 was in HR, we would change out the scenarios, update them 20 based on current allegations that we felt needed to be 21 addressed. If a guideline or rules and regs were updated, 22 we changed -- changed that portion out.</p> <p>23 Q. And the version that you reviewed was from when?</p> <p>24 A. I don't know. I just pulled one just to see 25 what all was -- remind myself what was in it.</p>	Page 12

<p>1 MS. SULLIVAN: We're actually making the 2 copies now. She brought it, so I'll hand it to you.</p> <p>3 MR. MONTEIRO: Okay.</p> <p>4 MS. SULLIVAN: They're bringing it in.</p> <p>5 MR. MONTEIRO: Do you know if it's been 6 produced in discovery, prior to today?</p> <p>7 MS. SULLIVAN: She has given me a lot of 8 stuff. Do you --</p> <p>9 THE WITNESS: I don't think you have that.</p> <p>10 MS. SULLIVAN: Okay.</p> <p>11 MR. MONTEIRO: Okay. Thank you.</p> <p>12 Q. (BY MR. MONTEIRO) Okay. So you identified the 13 man- -- Excuse me. You identified the training manual 14 that was provided to newly-promoted officers.</p> <p>15 Were there any other documents that you 16 reviewed in preparation for your deposition today?</p> <p>17 A. I looked at some of my old emails to try to get 18 a timeline kind of in my head as far as when -- when 19 things occurred.</p> <p>20 Q. And when you say "when things occurred", what 21 are you referring to? What were you trying to figure out?</p> <p>22 A. Well, like, when our newly-promoted officer 23 training started, because when we first started, the 24 Office of Professional Standards, which we call Staff 25 Services, I had a slot for the newly-promoted officers for</p>	<p>Page 13</p> <p>1 in '13.</p> <p>2 Q. And I'm sorry. What was your segment 3 represented?</p> <p>4 A. Staff Services Procedures.</p> <p>5 Q. So that relates to the complaint policy. Is 6 that right?</p> <p>7 A. Uh-hm, complaints, grievances, how to handle a 8 complaint, how to document.</p> <p>9 Q. So when you started in 2013, you -- you began 10 offering training on the complaint policy during the --</p> <p>11 A. Right, and then --</p> <p>12 Q. -- newly-promoted officer training?</p> <p>13 A. -- that evolved into how to address the 14 complaint.</p> <p>15 MS. SULLIVAN: Let him finish his question.</p> <p>16 THE WITNESS: Oh, I'm sorry.</p> <p>17 MR. MONTEIRO: That's okay.</p> <p>18 MS. SULLIVAN: Because he can't type both 19 of you talking at the same time.</p> <p>20 Q. (BY MR. MONTEIRO) And, prior to your 21 involvement, is it your understanding that there was no 22 training on the complaint policy as part of the 23 newly-promoted officer training?</p> <p>24 A. I would be unaware of that.</p> <p>25 Q. Because I thought you said we -- They added it</p>
<p>1 an hour and Wanda Andrews had a slot for HR for an hour, 2 and we had back-to-back, the -- my class asked questions 3 that fell in her area, so anyway, we combined efforts 4 because there was such crossover and increased the class 5 by an hour.</p> <p>6 So part of the timeline was to see when we 7 actually started the classes, teaching the classes when we 8 combined efforts, things of that nature.</p> <p>9 Q. And were you able to determine when the Fire 10 Department instituted newly-promoted officer training?</p> <p>11 A. They had been doing that prior, already, but the 12 end of 2013 is when Wanda and I combined efforts.</p> <p>13 Q. That's when you began or were you doing it 14 before then?</p> <p>15 A. We each did a class separate, prior to that, but 16 that was also, I believe, sooner, in 2013.</p> <p>17 Q. And what were the -- What was the history in 18 terms of newly-promoted officer training prior to when you 19 started in 2013?</p> <p>20 A. My understanding, it was more geared toward 21 tactical and what paperwork the new officer would be 22 responsible for, and sometime even prior to Wanda and I, 23 when they had added the presentation from the 24 psychologist, and I believe Wanda was already teaching a 25 segment, and then my segment was the piece that was added</p>	<p>Page 14</p> <p>1 when you began.</p> <p>2 A. They added my piece.</p> <p>3 I don't know if somebody before -- So I 4 went to Staff Services December of 2010, so from December 5 of 2010 to 2013, I didn't present anything on the 6 complaint process. I don't know if it was presented by 7 someone else or not.</p> <p>8 Q. Okay. Okay. And we started that topic by 9 looking at all the emails that you reviewed.</p> <p>10 Were there any other documents that you 11 reviewed as part of your preparation?</p> <p>12 A. That was -- that was mostly it.</p> <p>13 Q. Did you speak with anyone within the Fire 14 Department, in preparation -- to prepare for your 15 deposition?</p> <p>16 A. I asked Wanda for a copy of the -- the manual.</p> <p>17 Q. Anyone -- any other conversations with anyone 18 within the Fire Department?</p> <p>19 A. No.</p> <p>20 Q. Did you speak with any anyone about their 21 depositions in this case to prepare for your deposition 22 today?</p> <p>23 A. I did not. The only conversation I knew, that 24 Alfredo Martinez had to testify and that was it.</p> <p>25 Q. You spoke with Mr. Martinez?</p>

<p style="text-align: right;">Page 17</p> <p>1 A. Because, yeah, I was needing him for something.</p> <p>2 He had to come over here to give his deposition.</p> <p>3 Q. What was the nature of your conversation with</p> <p>4 him?</p> <p>5 A. That he was coming over and that was it.</p> <p>6 Q. That was all. Okay. All right.</p> <p>7 Can you tell me what your current position</p> <p>8 is with the Fire Department?</p> <p>9 A. Fire Marshal.</p> <p>10 Q. How long have you been the Fire Marshal?</p> <p>11 A. Since July of 2017.</p> <p>12 Q. And what are your duties and responsibilities as</p> <p>13 the Fire Department --</p> <p>14 A. I --</p> <p>15 Q. -- I'm sorry -- as the Fire Marshal?</p> <p>16 A. -- oversee inspections and arson investigations.</p> <p>17 Q. Do you have staff, a staff?</p> <p>18 A. I do.</p> <p>19 Q. How large is your staff?</p> <p>20 A. There are about 127 inspectors. That includes</p> <p>21 the Deputy Chief, the Chief Inspectors and seniors in</p> <p>22 inspector rank, and on the Arson side, there is 70 Arson</p> <p>23 Investigators, but -- let's see, seven -- about ten of</p> <p>24 them are assigned to the Office of Professional Standards.</p> <p>25 So chief Martinez oversees those.</p>	<p>1 A. Correct.</p> <p>2 Q. What kind of complaints did this -- did Staff</p> <p>3 Services have investigatory authority over?</p> <p>4 A. So in July or August of 2010, the old Office of</p> <p>5 Inspector General was dissolved and moved directly under</p> <p>6 the Mayor's Office, and those investigators that were off</p> <p>7 of Riesner -- I don't know what their area was called at</p> <p>8 the time -- they would do criminal, things involving</p> <p>9 criminal complaints or criminal allegations, and more</p> <p>10 serious complaints would go -- go through them, and then</p> <p>11 Staff Services only took the non-criminal or low-level</p> <p>12 complaints.</p> <p>13 Once the Office of Inspector General was</p> <p>14 moved under the Mayor, those investigators came to Staff</p> <p>15 Services and they investigate -- investigate and still do</p> <p>16 all complaints other than -- than those involving</p> <p>17 discrimination, retaliation and harassment, because those</p> <p>18 go to the Inspector General; and then the lower-level,</p> <p>19 first-time offenders on AWOLs, rudeness, things of that</p> <p>20 nature, those will get distributed to the Field</p> <p>21 Investigators, which are the District Chiefs, so they --</p> <p>22 they do all others.</p> <p>23 Q. Can Staff -- can Staff Services receive a</p> <p>24 complaint of discrimination?</p> <p>25 A. We can receive it, and if it's anything even</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. And what was your -- Did you hold a position</p> <p>2 with the Fire Department prior to becoming Fire Marshal in</p> <p>3 July 2017?</p> <p>4 A. Hold what position?</p> <p>5 Q. Did you hold a position with the Fire Department</p> <p>6 prior to July of 2017?</p> <p>7 A. Yes. I was in -- over Staff Services.</p> <p>8 Q. What was your title?</p> <p>9 A. Assistant Chief.</p> <p>10 Q. And what period of time were you Assistant Chief</p> <p>11 of Staff Services?</p> <p>12 A. December 2010 until July 2017.</p> <p>13 Q. And what were your duties and responsibilities</p> <p>14 as Assistant Chief for Staff Services?</p> <p>15 A. To oversee complaint investigations, grievances,</p> <p>16 mediation, conflict resolution, strategic plan and</p> <p>17 accreditation.</p> <p>18 Q. I'm sorry. What was the last part?</p> <p>19 A. And accreditation.</p> <p>20 Q. Thank you.</p> <p>21 Is -- During that time period, did Staff</p> <p>22 Services have investigators on staff?</p> <p>23 A. We did.</p> <p>24 Q. And what sorts of -- what -- Did the</p> <p>25 investigators investigate complaints?</p>	<p>1 remotely or even if we're unsure but appears to be</p> <p>2 retaliated to discrimination, harassment, retaliation, we</p> <p>3 would send it to the Inspector General, who would review</p> <p>4 it and determine if they should investigate it or send it</p> <p>5 back to our group.</p> <p>6 Q. Okay.</p> <p>7 And prior to being the Assistant Chief for</p> <p>8 Staff Services, did you hold a position with HFD?</p> <p>9 A. I did. I was in Arson, as a Chief Investigator.</p> <p>10 Q. And how long were you Chief Investigator of</p> <p>11 Arson?</p> <p>12 A. I'm not sure. I think it was 2008, until the</p> <p>13 time that I was promoted to Assistant Chief.</p> <p>14 Q. Approximately 2010?</p> <p>15 A. Correct.</p> <p>16 Q. So I'm going to show you what's been marked as</p> <p>17 Exhibit 2, and I'm going to represent to you that this is</p> <p>18 the City's response and designations to the United States</p> <p>19 30(b)(6) deposition notice.</p> <p>20 Have you seen Exhibit 2 before?</p> <p>21 A. I have.</p> <p>22 Q. I want to direct you to Page 18, and it's a</p> <p>23 double-sided document, and under topic 4, there are</p> <p>24 several subtopics which all relate to kind of the City's</p> <p>25 response to the Thompson & Horton report, which you</p>

<p>1 mentioned earlier.</p> <p>2 A. Okay.</p> <p>3 Q. If we look at subtopic (b), it says:</p> <p>4 "Defendant's policies, procedures and practices for the</p> <p>5 review of the assessment," the assessment being the</p> <p>6 Thompson & Horton --</p> <p>7 A. Horton.</p> <p>8 Q. -- report, and you understand that the City's</p> <p>9 designated you in response to -- or to testify about that</p> <p>10 subtopic?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And subtopic (c) is: "Defendant's</p> <p>13 efforts to review the assessment," and, again, you</p> <p>14 understand the City has designated you to testify</p> <p>15 regarding that topic?</p> <p>16 A. Yes.</p> <p>17 Q. Topic (e) -- subtopic (e) is: "Defendant's</p> <p>18 efforts to review, revise or modify HFD's policies or</p> <p>19 procedures in response to the assessment."</p> <p>20 Again, you understand you have been</p> <p>21 designated to testify regarding that subtopic?</p> <p>22 A. Yes.</p> <p>23 Q. And then subtopic (f) is: "Defendant's efforts</p> <p>24 to implement the recommendations identified in the</p> <p>25 assessment," and the City -- you understand the City's</p>	Page 21	<p>1 Q. Okay.</p> <p>2 And then how about subtopic (b)? Do you</p> <p>3 have information -- Without getting into the specifics, do</p> <p>4 you -- Are you -- are you able to testify as the City's</p> <p>5 representative regarding the Defendant's training and</p> <p>6 implementation of the 2018 version of the HFD's complaint</p> <p>7 policy?</p> <p>8 A. That would be Chief Martinez.</p> <p>9 Q. Okay. You're not able to answer questions on</p> <p>10 that?</p> <p>11 A. No, sir.</p> <p>12 Q. Do you have any personal knowledge gained</p> <p>13 through your employment on any of these subtopics?</p> <p>14 A. On which section?</p> <p>15 Q. Well, let's talk about --</p> <p>16 A. All of them?</p> <p>17 Q. -- the Thompson & Horton report.</p> <p>18 Did you have any involvement in your</p> <p>19 employment with respect to the Thompson & Horton report?</p> <p>20 A. Yes, and I believe it was the end of 2011.</p> <p>21 Chief Garrison had a Command Staff meeting where he</p> <p>22 directed each one of us to review the Thompson Horton</p> <p>23 assessment and review the spreadsheet and the management's</p> <p>24 response so far. He wanted us to take what was presented</p> <p>25 and further evaluate what else has been done and what else</p>	Page 23
<p>1 identified yourself, as well as Wanda Andrews, to offer</p> <p>2 testimony on that topic. Is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And, just so you know, we -- Wanda</p> <p>5 Andrews was deposed on Tuesday and handled some of our</p> <p>6 questions, but I will likely have some questions on that</p> <p>7 subtopic for you as well.</p> <p>8 A. Okay.</p> <p>9 Q. Directing your attention to topic 5, which is</p> <p>10 the HFD complaint policy dissemination and training, there</p> <p>11 is a subtopic (a), which relates to the 2005 version of</p> <p>12 the HFD's complaint policy.</p> <p>13 The City had previously designated Wanda</p> <p>14 Andrews with respect to training on that policy and there</p> <p>15 were some questions that I believe she said that you may</p> <p>16 be able to answer.</p> <p>17 So I -- I'm -- and I think the City agreed</p> <p>18 to present you on -- on that topic.</p> <p>19 A. On that one, the only thing I'm aware of would</p> <p>20 be what was listed on the Thompson Horton spreadsheet</p> <p>21 response --</p> <p>22 Q. Okay.</p> <p>23 A. -- which the initial portion was completed by</p> <p>24 Chief Snell and that -- I think it said 2009 training was</p> <p>25 conducted on the complaint policy.</p>	Page 22	<p>1 we could do.</p> <p>2 Q. And that's Fire Chief Garrison?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. So that -- And is that the first time in,</p> <p>5 approximately, the end of 2011 that you became involved</p> <p>6 with any sort of response or review of the Thompson &</p> <p>7 Horton report?</p> <p>8 A. Yes.</p> <p>9 Q. Are you aware of any efforts prior to the end of</p> <p>10 2011?</p> <p>11 A. To assess it, I wouldn't know because they --</p> <p>12 they released the findings, or the Thompson Horton report</p> <p>13 was published before I was appointed to the Command Staff</p> <p>14 and we were receiving training and I assume that was in</p> <p>15 response to the assessment.</p> <p>16 Q. And the spreadsheet that you have referenced,</p> <p>17 this -- did the spreadsheet represent the City's efforts</p> <p>18 from when the assessment was released through the end of</p> <p>19 2011?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. So everything the City had done between</p> <p>22 the release of the assessment through when you had this</p> <p>23 meeting at the end of 2011 was reflected on the</p> <p>24 spreadsheet?</p> <p>25 A. I don't know if everything was there, but the</p>	Page 24

<p style="text-align: right;">Page 25</p> <p>1 items that were listed, like, the LegalWATCH training, 2 some of -- some of what they said had taken place, I had 3 participated in.</p> <p>4 Q. And then in terms of subtopic (b) -- or I'm 5 sorry -- excuse me -- it's been a long week -- subtopic 5, 6 topic 5, have you had any involvement in the training 7 related to the HFD complaint policy?</p> <p>8 A. We revised -- When I was in Staff Services, we 9 revised the complaint policy and that gets shipped out as 10 a guideline.</p> <p>11 Q. And can -- can I just ask a follow-up question 12 on that?</p> <p>13 A. Sure.</p> <p>14 Q. When -- What version of that did you revise, if 15 you know?</p> <p>16 A. I don't remember the year. I'm guessing around 17 2012 or when we revised the rules and regs and maybe the 18 2013.</p> <p>19 Q. Okay. And I'm sorry.</p> <p>20 Did I cut you off from something else you 21 were going to say earlier?</p> <p>22 A. No. I was just trying to recall --</p> <p>23 Q. Okay.</p> <p>24 A. -- the time period.</p> <p>25 Q. Any other involvement with training with respect</p>	<p style="text-align: right;">Page 27</p> <p>1 A. It's the summary, plus the actual -- the actual 2 assessment document.</p> <p>3 Q. And is this the document that you -- you 4 reviewed in preparation for your deposition today?</p> <p>5 A. Yes.</p> <p>6 Q. All right. So topic 4(b) is Defendant's 7 policies, procedures and practices for review of the 8 assessment.</p> <p>9 Did the City have any specific policy in 10 place by which it handled the review of the assessment?</p> <p>11 A. I don't know if they had a specific policy in 12 place. My directive came from Chief Garrison.</p> <p>13 Q. In 2011?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. Are you aware of any efforts to review 16 the assessment prior to 2011?</p> <p>17 A. Only due to the spreadsheet being completed.</p> <p>18 Q. And when did you first see the spreadsheet?</p> <p>19 A. In -- I believe 2011 was the first time I saw 20 it.</p> <p>21 Q. Do you know who prepared this spreadsheet?</p> <p>22 A. I was told Chief Snell prepared the spreadsheet.</p> <p>23 Q. The efforts that you began in -- at the end of 24 2011, after the Command Staff meeting, can you kind of 25 describe what you all did to -- it sounds like continued</p>
<p style="text-align: right;">Page 26</p> <p>1 to the complaint policy --</p> <p>2 A. I --</p> <p>3 Q. -- personal involvement?</p> <p>4 A. During the NPO class, we reviewed the complaint 5 policy, how to file a complaint, and then it would refocus 6 on how to prevent the complaint from happening in the 7 first place.</p> <p>8 Q. And there was -- Your participation with that, I 9 think you said earlier, began in --</p> <p>10 A. 2013.</p> <p>11 Q. -- late 2013?</p> <p>12 A. Yes.</p> <p>13 Q. Any other involvement with the complaint 14 training, with respect to the complaint policy, other than 15 what you have told us?</p> <p>16 A. That's all I can recall right now.</p> <p>17 Q. Okay. Let me show you Exhibit 13. I'm showing 18 you what's been previously marked as Deposition 19 Exhibit 13. For identification purposes, it is -- It has 20 the Bates numbers of HOU2257 through 2318.</p> <p>21 Have you seen this document before?</p> <p>22 A. Yes, I have.</p> <p>23 Q. What is it?</p> <p>24 A. It's the Thompson Horton assessment.</p> <p>25 Q. And is this the --</p>	<p style="text-align: right;">Page 28</p> <p>1 the review of the assessment?</p> <p>2 A. Mainly, Chief Garrison wanted us to document our 3 efforts.</p> <p>4 When we were first promoted on the Command 5 Staff, he was -- had already directed -- Like, for myself, 6 he wanted to establish the expectations for the 7 membership, train to those expectations, monitor 8 performance and hold people accountable, and he had 9 directed me to make sure it was in a fair and consistent 10 manner.</p> <p>11 He had addressed confidentiality. Prior -- 12 I guess when I took over, it was all peace officers, 13 trained investigators that were in the office. Prior to 14 that, it would be a Captain from Suppression or a Senior 15 Captain or such, and they had a previous practice of, if 16 they did an investigation, the respondent got all the 17 witness statements and pretty much the case file, and as a 18 trained investigator, that -- that wasn't something I was 19 familiar with; so we stopped that.</p> <p>20 One, it was creating retaliation complaints 21 because people would get mad that somebody witnessed -- 22 provided a negative witness statement against the 23 respondent.</p> <p>24 Q. And I'm sorry. Just to ask a follow-up 25 question, the ending of that process, was that related to</p>

<p>1 your efforts to implement the Thompson & Horton report?</p> <p>2 A. That was not related because I hadn't really</p> <p>3 reviewed the Thompson Horton in great detail.</p> <p>4 Q. Okay.</p> <p>5 A. That was based on Chief Garrison's directive.</p> <p>6 I don't know what motivated his directive</p> <p>7 on confidentiality and the consistent and fair practice,</p> <p>8 other than that's the right way to do it.</p> <p>9 Q. And what was Chief Garrison's directive?</p> <p>10 A. To ensure fair and consistent investigations and</p> <p>11 to keep the information confidential.</p> <p>12 Q. And he ended the practice of sharing the --</p> <p>13 A. All the witness --</p> <p>14 Q. -- sharing witness statements with the target of</p> <p>15 the investigation?</p> <p>16 A. Correct.</p> <p>17 Q. And was that documented in any way?</p> <p>18 A. I may have put it in the Thompson Horton</p> <p>19 spreadsheet, but as far as a -- a policy, that was not.</p> <p>20 Q. You mentioned that -- you mentioned earlier that</p> <p>21 you were -- you weren't familiar with that practice when</p> <p>22 you first came on? You were a trained investigator and</p> <p>23 you weren't familiar with that practice? What do you mean</p> <p>24 by that?</p> <p>25 A. As a -- In a criminal investigation, we would</p>	<p>Page 29</p> <p>1 A. It was difficult to get a clean witness</p> <p>2 statement, especially if the complaint was against the</p> <p>3 Captain. So, in essence, I was asking the firefighter to</p> <p>4 report in a witness statement any bad behavior that the</p> <p>5 Captain may have displayed.</p> <p>6 Q. (BY MR. MONTEIRO) And the current practice, I</p> <p>7 think you said, is to provide the complaint --</p> <p>8 complainant's statement?</p> <p>9 A. Correct. So if you're the respondent --</p> <p>10 Q. Right.</p> <p>11 A. -- you're entitled to a copy of the complaint</p> <p>12 against you.</p> <p>13 Q. Okay. Anything else?</p> <p>14 A. 48-hour notice, 30-day letters, procedural</p> <p>15 items.</p> <p>16 Q. And that's a change in the City's practice, as</p> <p>17 opposed to a change in the law. Is that correct?</p> <p>18 MS. SULLIVAN: Objection. Vague.</p> <p>19 Go ahead and answer it.</p> <p>20 A. Yes, if I understand your question.</p> <p>21 Q. (BY MR. MONTEIRO) Okay.</p> <p>22 There was -- You changed that practice --</p> <p>23 you changed that practice in response to concerns you had</p> <p>24 about the practice. Correct?</p> <p>25 A. Yes.</p>	<p>Page 31</p>
<p>1 never give an arsonist all the witness statements against</p> <p>2 him.</p> <p>3 Q. And --</p> <p>4 A. So when I saw that --</p> <p>5 MS. SULLIVAN: Let him finish the question.</p> <p>6 THE WITNESS: Oh.</p> <p>7 Q. (BY MR. MONTEIRO) I'm sorry. You were going to</p> <p>8 say?</p> <p>9 A. So when I -- It didn't seem the proper way to do</p> <p>10 an investigation. So when I found out that the respondent</p> <p>11 on non-criminal investigation was getting all the witness</p> <p>12 statements, that's the practice that I cut out, by</p> <p>13 Government Code, they get a copy of the complaint and</p> <p>14 that's -- that's the only requirement.</p> <p>15 Q. Okay. So that applies -- You mentioned Arson,</p> <p>16 but that applies to non-criminal and criminal?</p> <p>17 A. We applied it across the board.</p> <p>18 Q. Across the board, to all -- all of the units</p> <p>19 that are investigating complaints?</p> <p>20 A. All of the investigators in Staff Services.</p> <p>21 Q. Okay. And -- and why did you feel that practice</p> <p>22 was improper or inappropriate?</p> <p>23 A. It was --</p> <p>24 MS. SULLIVAN: Objection. It calls for</p> <p>25 proper opinion, but go ahead and answer.</p>	<p>Page 30</p> <p>1 Q. Okay. You didn't change the practice as a</p> <p>2 result of a change in what state law requires you to</p> <p>3 provide to a witness. Is that correct?</p> <p>4 A. Right. It was -- There was no change in state</p> <p>5 law.</p> <p>6 Q. Okay. Thank you. All right.</p> <p>7 So what steps did -- did the City take to</p> <p>8 review the Thompson Horton assessment after your -- the</p> <p>9 Command Staff meeting at the end of 2011?</p> <p>10 A. Each Command Staff member was directed to</p> <p>11 document what they had done, what each person had done to</p> <p>12 address the recommendations and the findings on the</p> <p>13 assessment.</p> <p>14 Q. And were you looking -- were you looking -- were</p> <p>15 you looking back in time to what had already been done or</p> <p>16 were you looking prospectively, documenting prospectively</p> <p>17 what had been done?</p> <p>18 A. I looked back in time from the point that I was</p> <p>19 appointed, and then moving forward, some of the immediate</p> <p>20 plans.</p> <p>21 Q. Okay. And were those efforts documented?</p> <p>22 A. Right.</p> <p>23 Each of us were supposed to put what we've</p> <p>24 done or planned to do to address the concerns in the</p> <p>25 assessment and put it on the spreadsheet and it was</p>	<p>Page 32</p>
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<p>1 never give an arsonist all the witness statements against</p> <p>2 him.</p> <p>3 Q. And --</p> <p>4 A. So when I saw that --</p> <p>5 MS. SULLIVAN: Let him finish the question.</p> <p>6 THE WITNESS: Oh.</p> <p>7 Q. (BY MR. MONTEIRO) I'm sorry. You were going to</p> <p>8 say?</p> <p>9 A. So when I -- It didn't seem the proper way to do</p> <p>10 an investigation. So when I found out that the respondent</p> <p>11 on non-criminal investigation was getting all the witness</p> <p>12 statements, that's the practice that I cut out, by</p> <p>13 Government Code, they get a copy of the complaint and</p> <p>14 that's -- that's the only requirement.</p> <p>15 Q. Okay. So that applies -- You mentioned Arson,</p> <p>16 but that applies to non-criminal and criminal?</p> <p>17 A. We applied it across the board.</p> <p>18 Q. Across the board, to all -- all of the units</p> <p>19 that are investigating complaints?</p> <p>20 A. All of the investigators in Staff Services.</p> <p>21 Q. Okay. And -- and why did you feel that practice</p> <p>22 was improper or inappropriate?</p> <p>23 A. It was --</p> <p>24 MS. SULLIVAN: Objection. It calls for</p> <p>25 proper opinion, but go ahead and answer.</p>	<p>Page 30</p> <p>1 Q. Okay. You didn't change the practice as a</p> <p>2 result of a change in what state law requires you to</p> <p>3 provide to a witness. Is that correct?</p> <p>4 A. Right. It was -- There was no change in state</p> <p>5 law.</p> <p>6 Q. Okay. Thank you. All right.</p> <p>7 So what steps did -- did the City take to</p> <p>8 review the Thompson Horton assessment after your -- the</p> <p>9 Command Staff meeting at the end of 2011?</p> <p>10 A. Each Command Staff member was directed to</p> <p>11 document what they had done, what each person had done to</p> <p>12 address the recommendations and the findings on the</p> <p>13 assessment.</p> <p>14 Q. And were you looking -- were you looking -- were</p> <p>15 you looking back in time to what had already been done or</p> <p>16 were you looking prospectively, documenting prospectively</p> <p>17 what had been done?</p> <p>18 A. I looked back in time from the point that I was</p> <p>19 appointed, and then moving forward, some of the immediate</p> <p>20 plans.</p> <p>21 Q. Okay. And were those efforts documented?</p> <p>22 A. Right.</p> <p>23 Each of us were supposed to put what we've</p> <p>24 done or planned to do to address the concerns in the</p> <p>25 assessment and put it on the spreadsheet and it was</p>	<p>Page 32</p>

<p style="text-align: right;">Page 33</p> <p>1 funneled to Pat O'Gilvey, who was administrative assistant 2 to Chief Garrison.</p> <p>3 Q. So was this -- When -- Was the spreadsheet 4 already created when you started working on it?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And you were -- Were you supplementing, 7 adding supplemental information?</p> <p>8 A. Yes.</p> <p>9 Q. And the information you were providing was on 10 behalf of Staff Services?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. You have referenced Command Staff a 13 couple of times.</p> <p>14 What do you -- Who do you mean by "Command 15 Staff"?</p> <p>16 A. Assistant Chiefs.</p> <p>17 Q. For each of the -- Is it departments, divisions? 18 What's the correct terminology?</p> <p>19 A. Divisions. It was the Fire Chief, Executive 20 Assistant Fire Chief, as part of the Command Staff, and 21 then Assistant Fire Chief.</p> <p>22 Q. Okay. If we could look at -- on Page 3 of the 23 report, which is Key Recommendations, and it runs from A 24 through L, a couple of pages.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 35</p> <p>1 was inconsistencies even within the rules and regs 2 guideline, so -- and then that fell under my area. So we 3 formed a committee -- by "committee", it was four of us -- 4 to review the rules and regs, consolidate, eliminate 5 any -- any inconsistencies. The consolidation case was 6 because it was long and some parts were confusing. 7 The corresponding Behavior Manual, which 8 listed the consequences for a rule violation, we revised 9 that and streamlined that. 10 So after our committee came out with what 11 we felt was a good product, then we met with labor 12 attorneys, Deidra being one of them, and another labor 13 attorney to go through and make sure it was consistent 14 with City policy. We also added a clear rule, tying back 15 to workplace discrimination, harassment, retaliation, and 16 then discrimination based on sexual orientation to tie 17 back to 1-50 and 1-39. 18 Q. And the last thing you mentioned, the clarifying 19 the rule on workplace discrimination and sexual 20 orientation discrimination, is that correct -- 21 A. Yes. 22 Q. -- where was -- how was that modified or 23 where -- where was it modified? Was that from the rules 24 and regulations? 25 A. That's the HFD rules and regs. It's 6.01 and</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. And you have been designated to testify in terms 2 of the City's efforts to implement the recommendations. 3 Can you identify which of these 4 recommendations you are prepared to testify on behalf of 5 the City about today?</p> <p>6 A. E and F, I have limited knowledge on; G, I have 7 some knowledge; J, I am not prepared to testify on; the 8 rest, I'm okay with.</p> <p>9 Q. Okay. Thank you.</p> <p>10 So let's focus -- find topic B, which it 11 says "Improve and Consolidate Policies".</p> <p>12 As I understand it, the Thompson Horton 13 report made certain recommendations pertaining to revision 14 of the City and HFD's policies and procedures. Is that 15 fair?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And what did the City do to -- to improve 18 or consolidate its policies?</p> <p>19 A. Mayor Parker updated 1-20 as Executive Order, 20 and then later on she consolidated 1-8, 1-20, into 1-50. 21 They updated the Office of Inspector General 1-39, when it 22 was moved underneath the Mayor's Office. Chief Garrison 23 directed us to update all of our policies, all of our 24 guidelines.</p> <p>25 With regard to the rules and regs, there</p>	<p style="text-align: right;">Page 36</p> <p>1 6.02.</p> <p>2 Q. So those were modified?</p> <p>3 A. Yes, and I think they were in separate places 4 before, so we put it in one spot so it was clear that you 5 can't -- can't do that, you can't discriminate.</p> <p>6 Q. Okay. You mentioned that the guidelines were 7 updated. What do you mean by "guidelines"?</p> <p>8 A. So we have operational guidelines, like, how to 9 raise a ladder, things of that nature. The other one, the 10 administrative guidelines, will be, like, a transfer 11 policy.</p> <p>12 I'm trying to think of some of the other 13 ones off -- the rules and regs falls under that. The 14 complaint guideline, leaves and absences, things of that 15 nature, are in the administrative portion. So each 16 Assistant Chief that was over that particular area was 17 tasked with updating their guideline.</p> <p>18 Q. And who was on your committee? You said there 19 were four people. Right?</p> <p>20 A. Chief Stone, Ms. Terry Stone, Chief Kelvin 21 Reeves, Chief John Douglas. His participation was limited 22 because he was still on the shift, so when he was on 23 shift, he would meet with us. Chief Bryan Sky-Eagle 24 originally was going to help with that but ended up 25 updating our alternative dispute resolution guideline,</p>

<p>1 mediation guideline.</p> <p>2 Q. Okay. And I'm sorry. What was the last 3 person's name?</p> <p>4 A. Bryan Sky-Eagle. He ended up being -- working 5 on a different project, though.</p> <p>6 Q. Okay.</p> <p>7 Were there any recommendations with respect 8 to improving or consolidating the policies that were not 9 implemented by the HFD?</p> <p>10 MS. SULLIVAN: Objection. Confusing.</p> <p>11 MR. MONTEIRO: Let me re- -- Let me try to 12 rephrase it.</p> <p>13 Q. (BY MR. MONTEIRO) Did the City decline to 14 follow any of the recommendations in the Thompson & Horton 15 report related -- relating to improving or consolidating 16 its policies?</p> <p>17 A. Not that I'm aware of.</p> <p>18 Q. Okay.</p> <p>19 And I think we touched on -- You may have 20 just touched on recommendation C a minute ago, where you 21 talked about some of the work you did on the Behavior 22 Manual?</p> <p>23 A. Yes.</p> <p>24 Q. So can you describe the City's efforts to 25 improve the HFD Behavior/Discipline Manual?</p>	Page 37	Page 39
<p>1 A. We -- I think it was about 60-something pages 2 when we started and there was a lot of information that 3 either conflicted with itself and the same policy or 4 conflicted with, like, the complaint guideline.</p> <p>5 So we took out the stuff that was already 6 addressed in a different guideline, just to consolidate 7 it, just for -- to make it more clear and concise.</p> <p>8 We -- Part of the information on training 9 to expectations and things of that nature, they created a 10 separate -- it's called the red book; it's an 11 accountability manual; and there was separate training on 12 that, like, if you are a Houston firefighter, these are 13 the expectations and this is how we expect you to behave 14 for self-accountability.</p> <p>15 Q. I'm sorry. Just let me ask a question follow-up 16 question. Is the red book contained within the Behavior 17 Manual?</p> <p>18 A. It is not. It is now a separate document and 19 every firefighter was issued one, signed one, and was 20 given training on it.</p> <p>21 Q. And what did -- Remind -- Can you tell me what 22 was in -- what's in the red book? What are the policies 23 and procedures?</p> <p>24 A. It's more geared toward our values --</p> <p>25 Q. Okay.</p>	Page 38	Page 40

<p>1 Q. Okay.</p> <p>2 A. -- and the -- I mean, the consequences of the 3 violations.</p> <p>4 Q. Okay. Got it. Thank you.</p> <p>5 Let's move on to topic recommendation D, 6 which was "Improve Training".</p> <p>7 There is the first recommendation, and 8 there is "general workplace conduct training for all 9 employees". Was that modified? Was the general workplace 10 conduct training modified in response to the Thompson & 11 Horton report?</p> <p>12 A. HR presented training to the cadets. I'm not 13 sure how long that had been going on.</p> <p>14 I -- In 1994, I didn't receive that 15 training, but -- And then, periodically, we receive 16 training from HR regarding harassment, discrimination. 17 Back in the day, it used to be called "Tolerance 18 Training", but that was years ago, and we have a sexual 19 harassment training coming up --</p> <p>20 Q. So is --</p> <p>21 A. -- next month.</p> <p>22 Q. I'm sorry.</p> <p>23 Is what you're describing -- I just want to 24 make sure I understand this. Is what you're describing 25 the Fire Department's annual training or is this something</p>	<p>Page 41</p> <p>1 Q. So is it that when -- when the Executive Orders 2 were released, the -- you reviewed it with your staff --</p> <p>3 A. Correct.</p> <p>4 Q. -- those Executive Orders with your staff?</p> <p>5 A. And then there was leadership training that 6 was -- that was conducted after the report came out, and I 7 believe -- I can't remember if it was prior to me being 8 appointed or not.</p> <p>9 Q. Okay. Was that in response to the Thompson & 10 Horton report?</p> <p>11 A. Yes.</p> <p>12 Q. Who was -- What was the leadership training?</p> <p>13 A. Well, we also had EEOC, Knowing Your Rights 14 training, because those kind of blend together. HR 15 presented that. I believe Kelly Shreck was involved, 16 Wanda Andrews and Juan Padilla.</p> <p>17 Q. I'm sorry.</p> <p>18 They presented both Know Your Rights and 19 leadership training or are these separate?</p> <p>20 A. They were separate classes. I can't remember 21 who presented which one.</p> <p>22 Q. Who was the leadership training provided to?</p> <p>23 A. That, I don't remember, because I -- I can't 24 remember if that was after I got appointed or not. The 25 LegalWATCH was Senior Captains and up.</p>
<p>1 that was specifically instituted in response to the 2 report, if you know?</p> <p>3 A. Directly in response to the report was the 4 LegalWATCH training.</p> <p>5 Q. Okay. And what was your involvement in the 6 LegalWATCH training?</p> <p>7 A. That was before I was appointed to Assistant 8 Chief, so I was a student.</p> <p>9 Q. And was Wanda Andrews involved in that?</p> <p>10 A. She was not. They hired a -- the outside -- I 11 don't know if their name was LegalWATCH or whatever. They 12 had an outside agency come in and do -- conduct that 13 training.</p> <p>14 And then the other training we had to do on 15 a shift level, and that was before 1-8, 1-20 and 1-50 were 16 combined, that each Chief had to review it with their -- 17 whoever was under their command, each Chief, like District 18 Chief.</p> <p>19 Q. And what -- what was that training?</p> <p>20 A. It was 1-8, 1-20 and 1-50.</p> <p>21 Q. It was just on the text of those Executive 22 Orders?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. So when --</p> <p>25 A. And we had to review it with people under us.</p>	<p>Page 42</p> <p>Page 44</p> <p>1 Q. And the Know Your Rights was department-wide.</p> <p>2 Is that correct?</p> <p>3 A. The Know Your Rights was department-wide and 4 that was -- that was in person, face to face, from HR.</p> <p>5 Q. So for the LegalWATCH training, the Junior 6 Captains, did not receive it. Is that correct?</p> <p>7 A. I believe it was Senior Captains and up.</p> <p>8 Q. And I may have already asked you this, but who 9 received the leadership training?</p> <p>10 A. That's the part I can't remember right now.</p> <p>11 Q. You can't remember.</p> <p>12 A. Nuh-hm.</p> <p>13 Q. Okay. And then subtopic (2), or section (2),</p> <p>14 under D, says: "Hands-on personal management training as</p> <p>15 a prerequisite to promotion to supervisory positions."</p> <p>16 Can you describe the City's efforts to</p> <p>17 implement that recommendation?</p> <p>18 A. That would be the newly-promoted officer 19 training.</p> <p>20 Q. And, earlier in your deposition, we talked about</p> <p>21 the -- the time frame in which the newly-promoted officer</p> <p>22 training was implemented.</p> <p>23 You only knew as of 2013, I think, when you</p> <p>24 became involved. Is that right?</p> <p>25 A. Right.</p>

<p>1 Q. You weren't -- you weren't aware of what was 2 going on between 2010 and 2013?</p> <p>3 A. I don't know if -- if HR had a piece in that 4 during that time period or not.</p> <p>5 I do know that there was a newly-promoted 6 officer course. In '05 and early '10, it was geared 7 toward -- I only know that because that's an accreditation 8 cycle. The documents that were provided were primarily 9 tactical.</p> <p>10 Q. Okay.</p> <p>11 So since the law firm -- Since Thompson & 12 Horton was making the recommendation in December of 2009 13 to implement hands-on personal management training, does 14 that -- Is it fair to assume that there was no 15 newly-promoted officer training on EEO issues prior to 16 that?</p> <p>17 MS. SULLIVAN: Objection. Mischaracterizes 18 the evidence in the record, but go ahead.</p> <p>19 A. That would be an assumption. I don't have any 20 direct knowledge.</p> <p>21 Q. (BY MR. MONTEIRO) You don't know?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. All right.</p> <p>24 And then was it -- Were there any other 25 efforts, other than the newly-promoted officer training,</p>	<p>Page 45</p> <p>1 A. Yeah. All the investigators in Staff Services, 2 investigators, Senior Chief, myself.</p> <p>3 Q. (BY MR. MONTEIRO) When was that administered?</p> <p>4 A. Around 2011, 2012, somewhere.</p> <p>5 Q. And was it more than once or just one time?</p> <p>6 A. We had that training, we had a couple of 7 webinars that the Inspector General also attended and the 8 Chief provided follow-up training to the webinars.</p> <p>9 Q. What was the topic of the webinars?</p> <p>10 A. One of them was on documentation and the other 11 one, I don't remember. It was regarding discrimination.</p> <p>12 I don't remember the title of it, and then, since they're 13 all peace officers and trained Arson Investigators, they 14 have to continue with their CE hours and that's per Texas 15 Commission on Law Enforcement.</p> <p>16 Q. Okay. So any training encompassed within the 17 CE -- or you're referencing any training that's 18 encompassed within their CE requirements?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. Was the investigating Title VII 21 complaints training provided to -- provided outside of 22 Staff Services?</p> <p>23 A. It was not.</p> <p>24 The other training with -- because, 25 earlier, I had mentioned that, like, AWOLs, rudeness,</p>	<p>Page 47</p>
<p>1 to respond to section (2), D(2) -- I'm sorry -- which 2 was --</p> <p>3 A. I can't think of any directly related to 4 promotion other than adding 1-50, the rules and regs, 5 things of that nature, as a study, study material for 6 testing.</p> <p>7 Q. Okay. And does newly-promoted officer training 8 begin at the Junior Captain level?</p> <p>9 A. It does.</p> <p>10 Q. Subtopic (3), under D is: "Practical 11 investigation training to those charged with reviewing, 12 processing, and resolving HFD complaints and charges."</p> <p>13 A. Uh-hm.</p> <p>14 Q. Are you aware of any efforts by the City to 15 implement those recommendations?</p> <p>16 A. Yes. We had investigating Title VII 17 allegations.</p> <p>18 Q. That was the training initiative?</p> <p>19 A. That was by labor -- actually, Deidra provided 20 that training.</p> <p>21 Q. Who was that provided to?</p> <p>22 MR. MONTEIRO: And, Deidra, you can't 23 answer.</p> <p>24 MS. SULLIVAN: The one time City Legal told 25 me.</p>	<p>Page 46</p> <p>1 things of that nature, went to the District Chiefs.</p> <p>2 Q. Right.</p> <p>3 A. So we funneled those complaints through the -- 4 the Deputy Chiefs. They passed that complaint onto the 5 District Chiefs.</p> <p>6 Chief Stone, who was on the rules and regs 7 committee, created a class from December 2010 to January 8 '11 and delivered it to all the shift commanders, who 9 trained all the District Chiefs, and then each District 10 Chief got the binder with the training materials and the 11 class packet, the scenarios; it was also put online for 12 them to follow up with. So all of the District Chiefs 13 received that training.</p> <p>14 Q. (BY MR. MONTEIRO) Okay.</p> <p>15 Was there any Title VII training provided 16 to any of the OIG investigators, investigators within OIG?</p> <p>17 A. Yeah.</p> <p>18 I can't remember. They may have attended 19 the one that Deidra put on, but they, for sure, attended 20 the -- the webinars and the follow-up with the Inspector 21 General.</p> <p>22 MR. MONTEIRO: All right. Can we take a 23 five-minute break. Go off the record.</p> <p>24 (Recess from 03:41:11 p.m. to 03:49:11</p> <p>25 p.m.)</p>	<p>Page 48</p>

<p>1 Q. (BY MR. MONTEIRO) Can we look at recommendation 2 H, which is on Page 4 of the report, which is the titled 3 "Ensure Confidentiality"?</p> <p>4 A. Uh-hm.</p> <p>5 Q. Is that related to what we talked about before, 6 when you said they stopped sharing the witness statements?</p> <p>7 A. Yes. I was -- That was part of it.</p> <p>8 Q. What else has been done, besides that?</p> <p>9 A. There were a lot of -- We made sure that all of 10 our computers logged off automatically. Before, the door, 11 the Staff Services, would be left open, people would 12 wander in, so start locking up when we left, made sure all 13 the files were secured.</p> <p>14 Also, on the notices, like, the 48-hour 15 notice, the 30-day letter, there is several places where 16 it says that you are ordered not to discuss the complaint, 17 contact the -- the respondent contact the complainant.</p> <p>18 Q. I'm sorry.</p> <p>19 Was that -- The 48-hour notice, was there a 20 change or a modification?</p> <p>21 A. We -- It had been on there. We just made sure 22 the language was clear.</p> <p>23 Q. Okay. You modified the language?</p> <p>24 A. Yes.</p> <p>25 Q. And was that across --</p>	<p>Page 49</p> <p>1 emotional issue that some- -- somebody may have, we would 2 refer them to the Employee Assistance Program or one of 3 our two staff psychologists.</p> <p>4 And then, if it was a non-sustained 5 complaint that seemed to be pervasive throughout the 6 station, then Wanda and I would make a trip out to the 7 station and then go over the same manual that we presented 8 to our newly-promoted officers.</p> <p>9 Q. Can you give me an example of any instances 10 where there -- there was a pervasive issue at a station 11 that you and Wanda made a presentation along those lines?</p> <p>12 A. Station 96.</p> <p>13 Q. What was the issue?</p> <p>14 A. The -- Let's see. The respondent was an 15 engineer operator and the allegation was against his 16 Captain. I think it was race-related, I remember, but 17 then that was associated with another complaint where the 18 same Captain that he was filing on, a previous complaint, 19 that Captain and that EO seemed to be targeting a 20 firefighter and then that firefighter had filed a 21 complaint. I mean, it was -- The complaints were going 22 back and forth.</p> <p>23 Q. Okay.</p> <p>24 A. So it involved most of the station members.</p> <p>25 So we went out, did our class, tried to</p>
<p>1 A. We met with --</p> <p>2 Q. -- beyond Staff Services?</p> <p>3 A. Right.</p> <p>4 We met with the Office of Inspector General 5 when Robin Curtis became the Inspector General, to make 6 sure our language was similar.</p> <p>7 Q. Any other efforts to ensure confidentiality?</p> <p>8 A. That's all I can think of, at the moment.</p> <p>9 Q. Okay. Let's move on to topic I, which is 10 "Non-Sustained Complaints", and it says: "When workplace 11 misconduct occurs, even if a particular perpetrator is not 12 identified, further action should nonetheless be taken to 13 minimize repeat occurrences."</p> <p>14 What has the City done to implement this 15 recommendation?</p> <p>16 A. If it was not sustained, especially if it was a 17 member against another member of the same station, we 18 would send them to conflict resolution with Wanda Andrews. 19 Because -- just because the complaint's not sustained 20 doesn't mean they're not going to have ongoing issues 21 after that.</p> <p>22 So they would meet with her, discuss the 23 elephant in the room, and discuss ways that they are going 24 to be able to work together peacefully. If it was a 25 behavior, maybe a -- possibly it was related to some</p>	<p>Page 50</p> <p>1 address the issue. Eventually, everybody got moved out, 2 because even after conflict resolution, they could not 3 show that they could work together peacefully.</p> <p>4 Q. And is there any sort of written policy or 5 procedure with respect to the initiatives that you 6 describe with respect to -- regarding non-sustained 7 complaints?</p> <p>8 A. The -- We have a Policy Awareness Program. I 9 believe that's in -- I have to double-check now; I don't 10 know if it's still in there -- the Code of Administrative 11 Procedure.</p> <p>12 Q. What is the Policy Awareness Program?</p> <p>13 A. Usually, we have used it on non-sus- -- 14 non-sustained complaints and more often on complaints that 15 got filed but were never formalized, and to formalize it, 16 you have to have a Notary sign it.</p> <p>17 So somebody would be mad, come file a 18 complaint, and then say, "You know what? I have changed 19 my mind," but it was -- It might be a low-level issue, but 20 it was still an issue that needed to be addressed.</p> <p>21 So we would assign it to the deputy, to the 22 District Chief, to make this person aware that if they 23 indeed did what they are alleged of, it would be a 24 violation of this policy, just to make them aware that the 25 policy exists.</p>

<p>1 Q. Okay. And that would -- and that primarily 2 would be for non-formalized complaints?</p> <p>3 A. Primarily. We used it on not-sustained 4 complaints, too, because even though we couldn't find 5 enough evidence, it's possible that it did happen, so we 6 would have to review the policy with them.</p> <p>7 Q. And that's contained within the Code of 8 Administrative Procedure. That initiative is contained 9 within the --</p> <p>10 A. I believe that's --</p> <p>11 Q. -- Code of Administrative Procedure?</p> <p>12 A. -- in the Code of Administrative Procedure. I 13 can't -- I would have to verify that piece.</p> <p>14 Q. Any other efforts that you are aware of?</p> <p>15 A. Those are the major ones.</p> <p>16 Q. And what was the policy with respect to 17 non-sustained complaints prior to the changes that were 18 made in response to the Thompson Horton report?</p> <p>19 A. A letter went out to the respondent and the 20 complainant that they were not sustained, and I believe 21 that was called the follow-up.</p> <p>22 Another prac-- -- And Chief Martinez started 23 this. When it -- When Staff Services was staffed by 24 non-peace officers, their -- some of the complaints were 25 being closed with what we felt was an improper way as</p>	Page 53	Page 55	
<p>1 exceeded 180 days. By Government Code, we have 180 days 2 to investigate the complaint, when they should be closed, 3 not sustained, sustained, exonerated, unfounded.</p> <p>4 So if it exceeded the 180 days, it appeared 5 that some of the investigations weren't even completed. 6 So even if it did get past the 180, Chief Martinez and 7 then -- because I came in after him, started completing 8 the investigation, find out if it was sustained. If it 9 was sustained past the 180, we may not -- we can't give 10 punitive discipline, but you can address the issue.</p> <p>11 Q. So I'm sorry. I was not clear.</p> <p>12 What was the change that was implemented?</p> <p>13 A. Closing them properly as sustained, not 14 sustained, exonerated or unfounded.</p> <p>15 Prior to that, some of the cases were 16 closed -- closed, and the reason exceeded 180 days --</p> <p>17 Q. Okay.</p> <p>18 A. -- so the investigation wasn't completed or it 19 wasn't examined to see what the findings were.</p> <p>20 Q. So they were closed without investigating -- 21 without completing the investigation, because it -- they 22 had hit the 180-day mark?</p> <p>23 A. Correct.</p> <p>24 Q. And the current procedure is to continue the 25 investigation, but you cannot take any punitive action.</p>	Page 54	<p>1 moved the inspector -- Office of Inspector General 2 directly underneath her, and then that's when our 3 investigators that were under OIG moved to Staff Services 4 and then staffed that office.</p> <p>5 And Staff Services can receive the 6 complaints, but if it says anything to do or appears to 7 have anything to do with discrimination, harassment or 8 retaliation, Staff Services will forward that to the 9 Office of Inspector General, who is staffed by some of the 10 Civil Rights attorneys, to conduct that investigation.</p> <p>11 Q. I'm sorry. I didn't catch the last thing you 12 said.</p> <p>13 What about a Civil Rights attorney?</p> <p>14 A. Some of the -- The Office of Inspector General, 15 they're all attorneys and they investigate that matter.</p> <p>16 Q. The investigators are attorneys --</p> <p>17 A. Uh-hm.</p> <p>18 Q. -- within OIG?</p> <p>19 A. Yes, they were at the time. I don't know what 20 the current practice is, but...</p> <p>21 Q. Okay.</p> <p>22 A. But at the time that we were forwarding them 23 over there, they were attorneys.</p> <p>24 Q. This makes reference to the employee 25 investigators within the Employee Relations Unit of the</p>	Page 56

<p>1 OIG.</p> <p>2 Is that what you're referencing?</p> <p>3 A. The Employee Relations Unit was under HPD. That</p> <p>4 wasn't HFD personnel.</p> <p>5 Q. And did -- Was that changed in response to this</p> <p>6 report?</p> <p>7 A. I -- I never worked with Employee Relations</p> <p>8 Unit. I knew that they existed, but the Office of</p> <p>9 Inspector General was -- the whole office was moved</p> <p>10 underneath the Mayor.</p> <p>11 Q. Okay. And your testimony is that the</p> <p>12 investigators who had -- who investigate discrimination</p> <p>13 complaints in that office are attorneys?</p> <p>14 A. Under the Office of Inspector General, the way</p> <p>15 it's set up now.</p> <p>16 Q. Okay. Thank you.</p> <p>17 It also says that the investigators should</p> <p>18 receive specialized training in EEO matters and</p> <p>19 investigative techniques and the manager of that unit</p> <p>20 should determine what rules, policies and/or orders, if</p> <p>21 any, have been violated.</p> <p>22 What do you know about the investigators,</p> <p>23 the training that the investigators receive on EEO matters</p> <p>24 and investigative techniques?</p> <p>25 A. The -- the training that we mentioned earlier,</p>	<p>Page 57</p> <p>1 from 2010 to 2017, and then later Chief Martinez, reviews</p> <p>2 the entire case findings --</p> <p>3 Q. And do you know what --</p> <p>4 A. -- and presents it to the Fire Chief.</p> <p>5 Q. I'm sorry. I didn't mean to interrupt you.</p> <p>6 Do you know what the procedure was in OIG?</p> <p>7 A. The Inspector General's investigators will</p> <p>8 conduct the investigation, and I don't know what the</p> <p>9 layer, if there are any layers, but then the Inspector</p> <p>10 General would review and write the final synopsis, and</p> <p>11 then I'm assuming it gets presented to the Mayor, but I</p> <p>12 don't know; but it does get presented back to the Fire</p> <p>13 Chief and then Chief Garrison at the time would bring it</p> <p>14 to me so I could compare it with similar violations,</p> <p>15 ensure there are consistent discipline, if needed.</p> <p>16 Q. I -- Was there involvement with OIG complaints</p> <p>17 or Staff Services complaints?</p> <p>18 A. The only involvement with OIG was when the</p> <p>19 Inspector General turned it back in to Chief Garrison, and</p> <p>20 then Chief Garrison would bring the case to me to look at</p> <p>21 the allegations, see what the consequences should be, and</p> <p>22 see what type of discipline was given in similar cases.</p> <p>23 If I had a question, then I would meet with</p> <p>24 the Inspector General to clarify the severity of the -- of</p> <p>25 the violation. It was usually what I needed clarification</p>
<p>1 investigating Title VII complaints, the webinars,</p> <p>2 follow-up with the Inspector General and then</p> <p>3 investigative technique, they're all -- they're all</p> <p>4 trained investigators.</p> <p>5 So the continu -- We have all been to --</p> <p>6 We're all certified, certified Arson Investigators, and</p> <p>7 then the continued training would be -- that's required by</p> <p>8 the Texas Commission on Law Enforcement.</p> <p>9 Q. Okay. Anything beyond what you testified about</p> <p>10 earlier?</p> <p>11 A. Not that I can think of right now.</p> <p>12 Q. And then it says: "The manager of that</p> <p>13 unit should determine what rules, policies or orders, if</p> <p>14 any, have been violated."</p> <p>15 Has that been implemented?</p> <p>16 A. Yeah. So in Staff Services, what all the peace</p> <p>17 officers got, the investigator will conduct the</p> <p>18 investigation, then it go -- it went to a Senior</p> <p>19 Investigator, who reviewed the investigative practices and</p> <p>20 then the Senior Investigator's involved during the</p> <p>21 investigation to make sure it's progressing.</p> <p>22 We -- Through City ordinance, we had a</p> <p>23 Chief Investigator dedicated to Staff Services. The Chief</p> <p>24 Investigator would review the findings and make a</p> <p>25 determination, and then the Assistant Chief, which was me</p>	<p>Page 58</p> <p>1 on.</p> <p>2 Q. And your recommend- -- You would make a</p> <p>3 recommendation in terms of discipline to any disciplinary</p> <p>4 action to be taken to Chief Garrison, and then --</p> <p>5 A. Correct.</p> <p>6 Q. -- he will be the final decision-maker on that?</p> <p>7 A. Yes.</p> <p>8 Q. When did that process -- When was that process</p> <p>9 instituted, if you know?</p> <p>10 A. It was when Chief Martinez was still in Staff</p> <p>11 Services. He started that process, but he wasn't</p> <p>12 Assistant Chief at the time, and then in 2000 -- starting</p> <p>13 in December 2010, that's the procedure followed.</p> <p>14 Q. If you can just go back for one second to 229 --</p> <p>15 Page 2292 of the report, and those Bates numbers at the</p> <p>16 bottom, the small numbers --</p> <p>17 A. Oh.</p> <p>18 Q. -- at the bottom say "HOU". It's Page 29 of the</p> <p>19 report --</p> <p>20 A. Okay.</p> <p>21 Q. -- under I, "Non-Sustained Complaints".</p> <p>22 We talked about that earlier, but the</p> <p>23 Thompson & Horton report says that -- it discusses the</p> <p>24 standard for sustaining a complaint is quite high.</p> <p>25 What's your understanding of that standard?</p>

<p style="text-align: right;">Page 61</p> <p>1 A. It's not beyond a reasonable doubt. It's more 2 likely than not. We're investigators, so we find evidence 3 on the matter.</p> <p>4 Q. Okay. Has that been modified? Has that 5 standard been modified?</p> <p>6 A. I mean, quite high relative to what, I guess 7 would be my question on that?</p> <p>8 Q. Do you know if that standard has been modified 9 at all?</p> <p>10 A. I think the part that was modified was not 11 closing on those exceeding 180 days.</p> <p>12 Q. Okay. All right. We're going to shift to topic 13 5, which is training on the HFD complaint policy, and I 14 think this will be brief.</p> <p>15 If I'm remembering right, when I asked you 16 earlier, you said that you had some information with 17 respect to the training on the 2005 policy but not on the 18 2018 policy. Is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. So if I can show you Exhibit -- If I can 21 give you Exhibit 11, this is the 2005 complaint policy 22 which has been marked as Deposition Exhibit 11.</p> <p>23 Are you -- are you familiar with that 24 document?</p> <p>25 A. I am.</p>	<p style="text-align: right;">Page 63</p> <p>1 Q. Okay. My question was just related to when the 2 policy initially went to -- went into effect in 2005.</p> <p>3 A. That would have been the only training I'm aware 4 of, is the review.</p> <p>5 Q. Okay. And then you said that there was a 6 reference in the Thompson & Horton report to some sort of 7 complaint training in 2009?</p> <p>8 A. Yes.</p> <p>9 Q. Can you tell me about that?</p> <p>10 A. Other than it's listed on the Thompson & Horton 11 report or the spreadsheet.</p> <p>12 Q. Do you know who -- who provided that training?</p> <p>13 A. It would have been under the direction of Chief 14 Snell, but I don't know who the actual member was that 15 provided it.</p> <p>16 Q. And was that department-wide?</p> <p>17 A. I do not know.</p> <p>18 Q. Do you know who received the training?</p> <p>19 A. I do not.</p> <p>20 Q. So you have given me the -- or you have 21 described efforts that were made to train on the policy in 22 2005 and then also in response to the Thompson & Horton 23 report.</p> <p>24 A. Yes.</p> <p>25 Q. Between those -- between that period, are you</p>
<p style="text-align: right;">Page 62</p> <p>1 Q. So Exhibit 11 indicates that it went into effect 2 in -- on August 1st of 2005. Is that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. When the policy initially went into effect, 5 did -- was there any training provided by the City with 6 respect to the policy?</p> <p>7 A. When a policy goes -- is sent out as a special 8 bulletin, every guideline or policy that comes out, the 9 ranking officer at a station or in a particular unit is to 10 review the guideline with its members.</p> <p>11 Q. By "review the guideline", does that mean read 12 through the guideline?</p> <p>13 A. Right.</p> <p>14 Q. And was that the practice in 2005?</p> <p>15 A. Yes.</p> <p>16 Q. By the "ranking officer", who do you mean? What 17 do you mean when you say "ranking officer"?</p> <p>18 A. It -- For example, the fire station, the highest 19 ranking officer is the Senior Captain and the Senior 20 Captain is responsible for ensuring that all members sit 21 down together and review the document.</p> <p>22 Q. Any other efforts? Any other training that was 23 provided when this policy went into effect?</p> <p>24 A. On the Thompson Horton spreadsheet, I believe it 25 said it was conducted in 2009.</p>	<p style="text-align: right;">Page 64</p> <p>1 aware of any efforts to provide training on Exhibit 11?</p> <p>2 A. Between 2005 and 2009?</p> <p>3 Q. Yes.</p> <p>4 A. I am not familiar with any training.</p> <p>5 Q. If I can direct your attention to Page 3 of the 6 complaint policy, under 6.01 B, and if you can just review 7 that paragraph and let me know when you have had a chance 8 to review that.</p> <p>9 (Witness reviewing document)</p> <p>10 A. Okay.</p> <p>11 Q. (BY MR. MONTEIRO) So this appears to describe 12 the procedure by which complaints of -- complaints that 13 allege criminal violations or discrimination complaints 14 are forwarded to the Office of Inspector General. Is that 15 fair?</p> <p>16 A. That's what that describes.</p> <p>17 Q. Okay. Was there any training -- Are you aware 18 of any training that was provided in terms of -- Let me 19 step back for a minute.</p> <p>20 The subparagraph references -- uses the 21 term "serious complaints". Do you see that?</p> <p>22 A. I do.</p> <p>23 Q. And it's -- The policy provides that serious 24 complaints should be forwarded to the Office of Inspector 25 General.</p>

<p>1 Was there any specialized training when 2 this policy went into effect in terms of what constitutes 3 a serious complaint?</p> <p>4 A. In the Behavior Manual, we -- That was in -- I 5 want to say it was '08. It may have been in '05 also.</p> <p>6 They discuss serious complaints versus non-serious, like, 7 what can be handled at the station level.</p> <p>8 Q. Okay. Any other efforts to provide training on 9 what a serious complaint is?</p> <p>10 A. In this -- this part was later modified, that 11 it's every supervisor's responsibility to report 12 allegations of discrimination, harassment or retaliation.</p> <p>13 Q. When was that modified?</p> <p>14 A. I believe it was modified before 2010 and that 15 was addressed in some of the training that we were 16 receiving.</p> <p>17 Q. Were you involved in the modification?</p> <p>18 A. Not the initial modification, but when I revised 19 the rules and regs and the Code of Administrative 20 Procedure, we modified the language a little bit just to 21 make it more clearer.</p> <p>22 Q. Okay. Do you know why the -- why the policy was 23 modified?</p> <p>24 A. I do not.</p> <p>25 Q. The -- the definition in the Behavior Manual in</p>	<p>Page 65</p> <p>1 with regard to OIG witness statements being provided to 2 the accused, if you will, why are all the reasons that you 3 implemented that change?</p> <p>4 MS. SULLIVAN: Objection. Mischaracterizes 5 the testimony.</p> <p>6 Q. (BY MR. CAPODICE) Go ahead.</p> <p>7 A. Answer?</p> <p>8 MS. SULLIVAN: You said in OIG?</p> <p>9 Q. (BY MR. CAPODICE) I said with regard to witness 10 statements. She implemented a -- You implemented a 11 change, correct, to --</p> <p>12 A. In Staff Services.</p> <p>13 Q. In Staff Services. Okay.</p> <p>14 Why did you implement that change?</p> <p>15 A. It didn't seem like a proper way. It came from 16 criminal investigations, where we would never give a 17 witness statement to an arsonist for fear of retaliation; 18 not Title VII type retaliation, but just the witness 19 trying to get back at the person.</p> <p>20 Q. Why not?</p> <p>21 A. Well, it was causing our complaints to go up 22 because the witness would say something in their witness 23 statement about the respondent and then the respondent 24 would file a complaint on the witness based on what they 25 said in their witness statement, and then the witness</p>	<p>Page 67</p>
<p>Page 66</p> <p>1 terms of serious complaints, your -- your belief is that 2 was instituted in 2008 or so?</p> <p>3 A. 2005 or 2008. I don't remember the original 4 Behavior Manual date.</p> <p>5 Q. So the terminology in the Behavior Manual that 6 refers to serious complaints, employees can rely on that 7 in determining whether a complaint is serious and needs to 8 go to OIG? Is that the intention?</p> <p>9 A. During that -- that time period, I guess they 10 could. That's not how that piece is done anymore.</p> <p>11 Q. Okay.</p> <p>12 MR. MONTEIRO: I don't have any other 13 questions. Thank you for answering my questions.</p> <p>14 Ms. Draycott and Ms. Keyes' attorneys may 15 have a few questions.</p> <p>16 MR. CAPODICE: Let's take a break real 17 quick and see if there is anything else.</p> <p>18 THE WITNESS: Okay.</p> <p>19 (Recess from 04:18:34 p.m. to 04:23:46 20 p.m.)</p> <p>21 EXAMINATION</p> <p>22 BY MR. CAPODICE:</p> <p>23 Q. Ms. McLeod, I just have one quick question, 24 probably multiple sub-questions; but no.</p> <p>25 With regard to the change that you made</p>	<p>Page 66</p> <p>1 would -- and then it just kept going back and forth. So 2 some of -- some of the complaints that we had were a 3 result of witnesses truthfully testifying.</p> <p>4 The other reason, especially if it was a 5 complaint against the superior officer at the -- at the 6 location or at the fire station, the firefighters who may 7 have been witnesses and two ranks below the Captain were 8 reluctant to give a complete statement because they knew 9 that their Captain would be able to review everything that 10 they said about them and, following that, the firefighter 11 would still have to work underneath that Captain's 12 supervisor.</p> <p>13 Q. And I guess there were retaliation complaints in 14 their situations?</p> <p>15 A. Then we would have retaliation complaints.</p> <p>16 Q. Any other reasons?</p> <p>17 A. That was the primary reason.</p> <p>18 Q. What about with regards to the integrity of the 19 investigation?</p> <p>20 A. Well, under the confidentiality piece.</p> <p>21 Q. And I know -- What do you mean by the 22 "confidentiality piece"?</p> <p>23 A. Another issue that came -- came up, that I was 24 told, that a respondent will have all the witness 25 statements, the copy of the complaint, the whole package,</p>	<p>Page 68</p>

<p style="text-align: right;">Page 69</p> <p>1 and read it at the fire station table and then other -- 2 other people who weren't even involved in the complaint 3 process would have access to that information.</p> <p>4 Q. Were there any concerns about the integrity of 5 the investigations in terms of a person that's being 6 accused getting all of the -- all of his ducks in a row 7 prior to providing his statement as to what happened?</p> <p>8 A. They got to know all the allegations against 9 them and I would re- -- review the information against 10 them.</p> <p>11 They wouldn't know -- I wouldn't tell them 12 specifically who said what, but they have to be able to 13 defend themselves. The respondent does have rights in 14 that situation, if I'm understanding.</p> <p>15 Q. Yeah, and I think maybe we're talking -- I'm 16 talking about only in the instance where the witness, the 17 witness statements are provided to the accused, not the 18 actual accusations by the person that's filing the 19 complaint.</p> <p>20 A. What was the question again?</p> <p>21 Q. Sure. With regard to witness statements --</p> <p>22 A. Yes.</p> <p>23 Q. -- not the complainant's statements or the 24 complainant's charge against the person.</p> <p>25 A. Okay.</p>	<p>1 A. Okay.</p> <p>2 Q. Why do you provide the witness statement to the 3 accused? Are you afraid of providing a witness statement 4 to the accused ahead of time will taint the investigation?</p> <p>5 MS. SULLIVAN: Objection. Improper 6 hypothetical. Go ahead.</p> <p>7 A. I wasn't so much concerned about tainting the 8 investigation as I was getting a truthful witness 9 statement or 100 percent -- If they would tell the truth, 10 I wanted all the details. I need a detailed witness 11 statement and it does maintain the confidential -- 12 confidentiality of the investigation if all of the 13 information -- if the respondent doesn't have all the 14 exact witness statements --</p> <p>15 Q. (BY MR. CAPODICE) So one --</p> <p>16 A. -- because they would receive hard copies of the 17 witness statements that can get lost or disseminated.</p> <p>18 Q. Yes.</p> <p>19 So one of the concerns is, obviously, 20 because witness statements got lost and disseminated, that 21 people weren't being as truthful on their witness 22 statements as they could be because they feared 23 retaliation and then lack of confidentiality and things 24 like that. Correct?</p> <p>25 MS. SULLIVAN: Objection. Mischaracterizes</p>
<p style="text-align: right;">Page 70</p> <p>1 Q. Do you believe that providing those to the 2 accused unfairly taints the investigation, allowing the -- 3 you know, the accused to get all their ducks in a row 4 about who said what in response to particular things?</p> <p>5 A. I don't think it unfairly taints the 6 investigation.</p> <p>7 Like I said, as far as them getting their 8 ducks in a row, I would tell them that, "This is the 9 evidence I have -- have against you," because they may be 10 able to explain it, I mean.</p> <p>11 Q. But isn't there a difference between telling 12 them that ahead of time and then telling them that while 13 you're interviewing them?</p> <p>14 A. By the time we interview them, we -- we have got 15 the witness statements.</p> <p>16 Q. And I get that. What I'm trying to understand 17 is let's just say -- let's try to make it a very simple 18 hypothetical.</p> <p>19 Person A accuses Person B that something 20 happened --</p> <p>21 A. Uh-hm.</p> <p>22 Q. -- and you have a witness to that incident --</p> <p>23 A. Yes.</p> <p>24 Q. -- okay? The person that's accused doesn't know 25 about the witness.</p>	<p>1 earlier testimony, but go ahead and answer.</p> <p>2 A. I felt that they may not have been as open.</p> <p>3 Q. (BY MR. CAPODICE) So, obviously, this change 4 encourages them to be more open with regard to the 5 allegations?</p> <p>6 A. Yes.</p> <p>7 Q. Were there any concerns about those witness 8 statements impacting what you got back from an accused?</p> <p>9 A. I don't think -- I don't think I understand that 10 question.</p> <p>11 Q. In terms of -- I guess in terms of their 12 testimony or in terms of their position that they take in 13 response to a complaint, were you concerned that providing 14 the witness statements to the accused gave them, you know, 15 notice of all of the facts ahead of time before they 16 actually took a position in terms of what happened?</p> <p>17 A. My -- my main concern was maintaining the 18 confidentiality and not having those witness statements 19 out, out in public and also to cut down on the chance that 20 the respondent may retaliate against any of the witnesses.</p> <p>21 MR. CAPODICE: Okay. Pass the witness.</p> <p>22 MS. SULLIVAN: I just have a few questions.</p> <p>23 EXAMINATION</p> <p>24 BY MS. SULLIVAN:</p> <p>25 Q. Where we just left off about the retaliation,</p>

<p>1 what were you talking about in reference to your 2 experience?</p> <p>3 A. On the Arson side, that's a whole 'nother 4 manner. I was afraid that, if a felon finds out who 5 turned him in, they might harm -- harm the person.</p> <p>6 Q. Okay. From the Administrative side, then?</p> <p>7 A. On the Administrative side, I was afraid they 8 would either file a complaint or, if it was a supervisor, 9 that they would treat them unfairly in the workplace.</p> <p>10 For example, there are -- a Captain finds 11 out a firefighter testified against him, he may not let 12 him write up or drive an apparatus or having a potential 13 for higher class, may send him in for a transfer.</p> <p>14 Q. So what -- what did you do to guard against -- 15 Well, let's start first.</p> <p>16 If you learned that some action was taken 17 of retaliation, how would you handle it?</p> <p>18 A. Depending on -- on the retaliation, we would 19 have to open a new complaint. If the retaliation were 20 based on discrimination, harassment or any of those 21 things, it will get at least forwarded to the Office of 22 Inspector General to follow up on.</p> <p>23 Q. Okay. And did you have instances where the 24 retaliation was not related to Title VII?</p> <p>25 A. Yes.</p>	<p>Page 73</p> <p>1 Q. Okay.</p> <p>2 A. It was to help us identify those types of 3 complaints more easily.</p> <p>4 Q. And as a result of implementing some of the 5 recommendations in Thompson Horton, did you see any 6 changes in the number of complaints that you were 7 handling?</p> <p>8 A. Yes.</p> <p>9 It was well over 400 complaints by the end 10 of 2010, and then by the end of my last year there, it had 11 dropped down to 149 and you could even see a drop right 12 after the Thompson Horton report was released and I think 13 Chief Flanagan and Chief Snell had started implementing 14 practices and then we would make concentrated efforts to 15 reduce it and we could track it along the way.</p> <p>16 Q. And would these complaints include complaints 17 alleging discrimination and under Title VII, of 18 retaliation Title VII?</p> <p>19 A. Yes. It was the total number of complaints, 20 including those.</p> <p>21 MS. SULLIVAN: Okay. Pass the witness.</p> <p>22 FURTHER EXAMINATION</p> <p>23 BY MR. MONTEIRO:</p> <p>24 Q. I'm sorry. Just for clarification, those were 25 the complaints that were filed with Staff Services?</p>	<p>Page 75</p>
<p>1 Q. Okay. And what did you do in those situations?</p> <p>2 A. Assigned it to an investigator, assigned a new 3 case to the investigator, and we would go through the 4 whole complaint process.</p> <p>5 Q. Okay.</p> <p>6 Now, did you make any changes to the intake 7 forms out of Staff Services as a result of the Thompson 8 Horton assessment?</p> <p>9 A. Yes.</p> <p>10 Some of the complaints that came in were 11 either poorly written or they may have been written well 12 but didn't specify that they felt that the respondent -- 13 they didn't clearly state that they felt it was because of 14 race, religion or any type of discriminatory practices.</p> <p>15 And then at the end of the investigation, 16 they will say, "Well, how come you didn't sustain on them 17 for discrimination," and part of that reason will be 18 because it wasn't stated clear in the report.</p> <p>19 So we created the form to ask those 20 simple -- simple, direct questions: Do you believe this 21 is based on retaliation? Do you believe this was based on 22 discrimination? And then they would check the boxes of 23 the reasons that -- based on what type of discrimination.</p> <p>24 So it cleared up the form. I met with the 25 Inspector General who began using a similar form.</p>	<p>Page 74</p> <p>1 A. The complaints that involved Fire Department 2 employees. So even if they originated with the Office of 3 Inspector General, that included those complaints, too.</p> <p>4 Q. And is that documented somewhere?</p> <p>5 A. Is what documented?</p> <p>6 Q. The change in the number of complaints.</p> <p>7 A. Yes.</p> <p>8 Q. Where is that documented?</p> <p>9 A. I have a little graph. I think I gave you a 10 copy of -- of the graph and then the rest would be in the 11 database under our stats.</p> <p>12 Q. What -- what was the graph prepared for?</p> <p>13 A. Chief Garrison, in 2010, wanted me to reduce the 14 complaints. He came from a department where they didn't 15 have that many complaints. I'm thinking '09 there were, 16 like, 485 complaints and then it dipped a little bit to, 17 like, 420 or 30-something.</p> <p>18 So one of his directives was reduce the 19 number of complaints, get it to a manageable number where 20 we can start addressing it before it even becomes -- 21 address the behavior before it even becomes a complaint.</p> <p>22 MR. MONTEIRO: And I thank you, ma'am. No 23 further questions.</p> <p>24</p> <p>25</p>	<p>Page 76</p>

	Page 77	Page 79
1	FURTHER EXAMINATION	
2	BY MR. CAPODICE:	
3	Q. The changes to the witness statements that we	
4	talked about earlier, you made that in Staff Services.	
5	Correct?	
6	A. Yes.	
7	Q. Not OIG?	
8	A. The Inspector General changed some of their	
9	language to where we were consistent.	
10	Q. Okay.	
11	MR. CAPODICE: That's all I wanted to check	
12	on. Thanks.	
13	MS. SULLIVAN: All right. Read and sign.	
14		
15	(Deposition concluded at 04:46:34 p.m.)	
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23		
24		
25		
	Page 78	Page 80
1	CHANGES AND SIGNATURE	
2	ORAL DEPOSITION OF FIRE MARSHAL MICHELLE McLEOD	
3	AUGUST 15, 2019	
4	PAGE LINE CHANGE	REASON
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Page 81

1 attorney or counsel employed by the parties hereto, or
2 financially interested in the action.

3 I further certify that the amount of time used by
4 each counsel at the time of the deposition is as follows:

5

6 Mr. Jeremy P. Monteiro -(01:42:42)
7 Attorney for PLAINTIFF UNITED STATES OF AMERICA
Ms. Deidra N. Sullivan -(00:03:55)
8 Attorney for DEFENDANT CITY OF HOUSTON
Ms. Elizabeth F. Karpati -(03:16:04)
9 Attorney for PLAINTIFF UNITED STATES OF AMERICA
Mr. Dwain Gregory Capodice II -(00:22:48)
10 Attorney for PLAINTIFFS-INTERVENORS JANE DRAYCOTT
AND PAULA KEYES

11 GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the
12 9th day of September, A.D., 2019.

13

14 *James Plair*

15

16

17 JAMES M. PLAIR, CSR
Texas CSR 4409
18 Expiration: 12-31-2019
Lexitas - Firm Registration No. 95
19 13101 Northwest Freeway, Suite 210
Houston, Texas 77040
20 281-469-5580
21
22
23
24
25

	1st 62:2	4(b) 27:6
	2	400 75:9
	2 4:10,11 20:17,20	408841 1:24
	2000 60:12	420 76:17
	2005 22:11 61:17,21 62:2,14 63:2,22 64:2 66:3	48-hour 31:14 49:14,19
	2008 20:12 66:2,3	485 76:16
	2009 5:11 6:5,17 7:1,6,12 22:24 45:12 62:25 63:7 64:2	4:18-CV-00644 1:4
	2010 16:4,5 18:12 19:4 20:14 45:2 48:7 59:1 60:13 65:14 75:10 76:13	4:46 1:20
	2011 23:20 24:5,10,19,23 27:13,16, 19,24 32:9 47:4	5
	2012 25:17 40:17 47:4	5 22:9 25:5,6 55:21 61:13
	2013 14:12,16,19 15:9 16:5 25:18 26:10,11 44:23 45:2	54 6:5,17 7:1,6,12
	2017 17:11 18:3,6,12 59:1	6
	2018 23:6 61:18	6.01 35:25 40:23,24 64:6
	2019 1:16,20	6.02 36:1
	202.514.1005 2:7	60-something 38:1
	20530-0001 2:6	66 3:6
	229 60:14	7
	2292 60:15	70 17:22
	2300 2:11	72 3:7
	2318 26:20	75 3:8
	24900 2:23	77 3:9
	29 60:18	77002 1:22 2:12 10:18
	2:33 1:20	77002-2527 2:17
	3	77386 2:23
	3 33:22 64:5	78 3:10
	30(b)(6) 20:19	8
	30-day 31:14 49:15	8 3:5
	30-something 76:17	80 3:11
	300 2:23	832.393.6259 2:18
	4	832.767.3207 2:24
	4 20:23 49:2	9
	4(a) 4:10	900 1:21
		96 51:12

A		B
above-styled 1:19 absences 36:14 access 69:3 accommodate 9:21 accountability 38:11 accountable 28:8 accreditation 18:17,19 45:7 accusations 69:18 accused 67:2 69:6,17 70:2,3,24 71:3,4 72:8,14 accuses 70:19 action 1:3 6:16,25 50:12 54:25 55:8, 14 60:4 73:16 actual 27:1 63:14 69:18 added 14:23,25 15:25 16:2 35:14 adding 33:7 46:4 address 10:14 15:13 32:12,24 52:1 54:10 76:21 addressed 12:21 28:11 38:6 52:20 55:6 65:15 addressing 76:20 administered 47:3 administrative 33:1 36:10,15 40:4,15,24 52:10 53:8,11,12 65:19 73:6,7 afraid 71:3 73:4,7 afternoon 4:1,3 agency 42:12 agreed 10:25 22:17 ahead 11:16 30:25 31:19 45:18 55:10 67:6 70:12 71:4,6 72:1,15 Ahmad 2:21,22 Alfredo 16:24 allegation 51:15 allegations 12:20 19:9 46:17 59:21 65:12 69:8 72:5 allege 64:13 alleged 52:23 alleging 75:17 allowed 55:7,13	allowing 70:2 alternative 36:25 AMERICA 1:3 2:2 and/or 57:20 Andrews 12:18 14:1 22:1,5,14 42:9 43:16 50:18 annual 41:25 answering 66:13 antidiscrimination 39:3 anymore 12:17 66:10 apparatus 73:12 APPEARANCES 2:1 appeared 54:4 appears 20:1 56:6 64:11 applied 30:17 applies 30:15,16 appointed 24:13 32:19 42:7 43:8, 24 approximately 8:20 11:9 20:14 24:5 area 14:3 19:7 35:2 36:16 arson 17:16,22 20:9,11 30:15 47:13 58:6 73:3 arsonist 30:1 67:17 assert 5:4 6:12 assess 4:12 5:8 24:11 assessment 6:3,15,24 7:4,9 11:12 21:5,13,19,25 23:23 24:15,18,22 26:24 27:2,8,10,16 28:1 32:8,13,25 74:8 assign 52:21 assigned 17:24 55:22 74:2 Assignment 55:20 Assistance 51:2 55:18 assistant 18:9,10,14 20:7,13 33:1, 16,20,21 36:16 42:7 58:25 60:12 assume 7:23 24:14 45:14 assuming 59:11 assumption 45:19 attached 1:23 attempt 7:10 attended 47:7 48:18,19	attention 22:9 64:5 attorney 5:14 8:10 10:2 35:13 56:13 ATTORNEY'S 2:10 attorney-client 4:17 attorneys 35:12 39:25 56:10,15,16, 23 57:13 66:14 August 1:16,19 19:4 62:2 authority 19:3 automatically 49:10 Avenue 2:5 aware 22:19 24:9 27:15 37:17 45:1 46:14 52:22,24 53:14 63:3 64:1,17 Awareness 52:8,12 AWOLS 19:19 47:25
		B
		back 9:6 10:13 20:5 32:15,18 35:14, 17 41:17 51:22 59:12,19 60:14 64:19 67:19 68:1 72:8 back-to-back 14:2 bad 31:4 Bagby 1:21 2:16 based 5:12,14,17 12:20 29:5 35:16 39:9 67:24 73:20 74:21,23 basically 12:7 Bates 26:20 60:15 began 14:13 15:9 16:1 26:9 27:23 74:25 begin 4:9 46:8 behalf 10:22 33:10 34:4 behave 38:13 behavior 31:4 35:7 37:21 38:16 50:25 65:4,25 66:4,5 76:21 Behavior/discipline 37:25 belief 66:1 binder 48:10 bit 65:20 76:16 blend 43:14 board 30:17,18 book 38:10,16,22 bottom 60:16,18

boxes 74:22	chief 4:1 7:23 8:9 17:21,25 18:9,10,14 20:7,9,10,13 22:24 23:8,21 24:2 27:12,22 28:2 29:5,9 33:2,19,20,21 34:22 36:16,20,21,23 42:8,16,17,18 47:2,8 48:6,10 52:22 53:22 54:6 58:23,25 59:1,4,13,19,20 60:4,10,12 63:13 75:13 76:13	complainant's 31:8 69:23,24
break 9:19,20,25 39:14 48:23 66:16	Chiefs 11:23 19:21 33:16 48:1,4,5,9,12	complained 7:11
bring 59:13,20	City 1:6,11,14,18,21 2:14,16 4:14,15,22 5:3,8,14 6:23 10:21,22 21:14,25 22:13,17 24:21 27:9 32:7 34:5,14,17 35:14 37:13 39:23 46:14,24 50:14 58:22 62:5	complaint 12:3,4,10 15:5,8,10,14,22 16:6 18:15 19:24 22:10,12,25 23:6 25:7,9 26:1,4,5,6,13,14 30:13 31:2,7,11 36:14 38:4 48:4 49:16 51:5,17,18,21 52:18 54:2 60:24 61:13,21 63:7 64:6 65:3,9 66:7 67:24 68:5,25 69:2,19 72:13 73:8,19 74:4 76:21
bringing 13:4	CIV 1:14,18	complaint's 50:19
brought 13:2 39:12	Civil 1:3,22 2:5 56:10,13	complaints 7:5 15:7 18:25 19:2,9,10,12,16 28:20 30:19 46:12 47:21 48:3 50:10 51:21 52:7,14 53:2,4,17,24 55:21,22 56:6 57:13 58:1 59:16,17 60:21 64:12,13,21,24 65:6 66:1,6 67:21 68:2,13,15 74:10 75:3,6,9,16,19,25 76:1,3,6,14,15,16,19
Bryan 36:23 37:4	claim 6:9	complete 68:8
bulletin 62:8	clarification 7:18 59:25 75:24	completed 22:23 27:17 54:5,18
business 10:14	clarify 59:24	completing 54:7,21
<hr/>		
C	clarifying 35:18	computerized 1:21
cadets 41:12	class 14:2,4,15 26:4 40:11 48:7,11,51:25 73:13	computers 49:10
call 13:24	classes 12:18 14:7 43:20	concentrated 75:14
called 19:7 38:10 41:17 53:21	clean 9:10 31:1	concern 72:17
calls 30:24	clear 35:14 36:4 38:7 49:22 54:11,74:18	concerned 71:7 72:13
Capodice 2:22 3:6,9 66:16,22 67:6,9 71:15 72:3,21 77:2,11	cleared 74:24	concerns 31:23 32:24 69:4 71:19,72:7
Captain 28:14,15 31:3,5 46:8 51:16,18,19 62:19,20 68:7,9 73:10	clearer 65:21	concise 38:7
Captain's 68:11	closed 53:25 54:2,16,20	concluded 77:15
Captains 11:23 43:25 44:6,7	closing 54:13 61:11	conduct 41:8,10 42:12 56:10 58:17,59:8
care 4:7	code 10:17 30:13 40:4,15,21,24 52:10 53:7,11,12 54:1 55:2 65:19	conducted 22:25 43:6 62:25
case 16:21 28:17 35:5 59:2,20 74:3	combined 14:3,8,12 42:16	confer 7:20
cases 54:15 59:22	command 23:21 24:13 27:24 28:4,32:9,10 33:12,14,20 42:17	confidential 29:11 71:11
catch 56:11	commanders 48:8	confidentiality 28:11 29:7 49:3,50:7 68:20,22 71:12,23 72:18
categories 40:6	Commission 47:15 58:8	conflict 18:16 50:18 52:2
causing 67:21	committee 35:3,10 36:18 39:25,48:7	conflicted 38:3,4
caveat 9:23	communications 5:14	confusing 35:6 37:10
CE 40:11 47:14,17,18	compare 59:14	consequence 40:3
Certificate 3:11	complainant 49:17 53:20	consequences 35:8 41:2 59:21
certified 1:20 58:6		consistent 28:9 29:7,10 35:13,59:15 77:9
chance 64:7 72:19		consolidate 34:11,18 35:4 38:6
change 12:19 31:16,17 32:1,2,4 49:20 54:12 66:25 67:3,11,14 72:3,76:6		consolidated 34:20
changed 12:16,22 31:22,23 40:5,52:18 57:5 77:8		
characterization 55:10		
charge 69:24		
charged 46:11		
charges 46:12		
check 74:22 77:11		

consolidating 37:8,15	decide 5:8	dipped 76:16
consolidation 35:5	decision 4:11	direct 20:22 45:20 64:5 74:20
constitutes 65:2	decision-maker 60:6	directed 23:22 28:5,9 32:10 34:23
contact 12:5,6 49:17	decline 37:13	Directing 22:9
contained 38:16 40:18 53:7,8	dedicated 58:23	direction 63:13
continu- 58:5	defend 69:13	directive 27:12 29:5,6,9
continue 47:14 54:24	Defendant 1:6,11 2:14	directives 76:18
continued 27:25 58:7	Defendant's 4:11 21:4,12,17,23	directly 19:5 39:4 42:3 46:3 56:2
conversation 16:23 17:3	23:5 27:6	disciplinary 60:3
conversations 4:25 16:17	definition 65:25	discipline 54:10 59:15,22 60:3
copies 13:2 71:16	Deidra 2:15 35:12 46:19,22 48:19	discovery 13:6
copy 12:11 16:16 30:13 31:11 39:12	Deidra.sullivan@houstontx.gov 2:18	discriminate 36:5 39:8
68:25 76:10	delivered 48:8	discrimination 4:14 5:11 19:17,24
correct 5:18 19:1 20:15 22:2 24:20	department 1:21 2:4,10,16 8:10	20:2 35:15,16,19,20 39:18 40:22
27:14 29:16 31:9,17,24 32:3 33:18	12:5 14:10 16:14,18 17:8,13 18:2,5	41:16 47:11 56:7 57:12 64:13 65:12
35:20 39:10 40:23 42:23 43:3 44:2,6	39:1,16 76:1,14	73:20 74:17,22,23 75:17
45:22 47:19 54:23 60:5 62:2,3 67:11	Department's 41:25	discriminatory 74:14
71:24 77:5	department-wide 44:1,3 63:16	discuss 49:16 50:22,23 65:6
corrective 6:24 55:8,14	departments 33:17	discusses 55:22 60:23
counseling 40:9 55:18	Depending 73:18	displayed 31:5
couple 11:17 33:13,24 47:6	deposed 8:19 22:5	dispute 36:25
court 1:1 9:5,8	deposition 1:14,18 4:11 8:11,13,22	disseminated 71:17,20
created 33:4 38:9 48:7 74:19	11:1,5,8,11 13:16 16:15,21 17:2	dissemination 22:10
creating 28:20	20:19 26:18 27:4 44:20 61:22 77:15	dissolved 19:5
criminal 19:8,9 29:25 30:16 64:13	depositions 16:21	distributed 19:20
67:16	deputy 17:21 48:4 52:21	District 1:1 11:23 19:21 42:17 48:1,
crossover 14:4	describe 27:25 37:24 44:16 52:6	5,9,12 52:22
current 12:14,20 17:7 31:6 54:24	55:23 64:11	DIVISION 1:2 2:5
56:20	describes 64:16	divisions 33:17,19
Curtis 50:5	describing 41:23,24	document 11:19 15:8 20:23 26:21
cut 9:17 25:20 30:12 72:19	designated 10:21 12:4 21:9,14,21	27:2,3 28:2 32:11 38:18 61:24 62:21
cycle 45:8	22:13 34:1	64:9
D		
D(2) 46:1	designations 20:18	documentation 47:10
D.C. 2:6	detail 29:3	documented 29:17 32:21 76:4,5,8
database 76:11	detailed 71:10	documenting 32:16
date 66:4	details 71:10	documents 11:17 13:15 16:10
day 41:17	determination 58:25	45:8
days 40:8 54:1,4,16 61:11	determine 14:9 20:4 57:20 58:13	door 49:10
December 16:4 18:12 45:12 48:7	determining 66:7	double-check 52:9
60:13	difference 70:11	double-sided 20:23
	difficult 31:1	doubt 61:1
		Douglas 36:21

Draycott 1:8 2:20 7:11 66:14 Draycott's 7:5 drive 73:12 drop 75:11 dropped 75:11 ducks 69:6 70:3,8 due 27:17 duly 1:19 8:5 duties 17:12 18:13 Dwain 2:22	ending 28:25 Enforcement 47:15 58:8 engineer 51:15 ensure 9:9 29:10 39:17 49:3 50:7 59:15 ensuring 62:20 entire 59:2 entitled 31:11 EO 51:19 equally 39:6 essence 31:3 establish 28:6 evaluate 23:25 events 6:4,17,25 7:6,11 Eventually 52:1 evidence 45:18 53:5 61:2 70:9 evolved 15:13 exact 71:14 Examination 3:5,6,7,8,9 8:7 66:21 72:23 75:22 77:1 examined 8:5 54:19 exceeded 54:1,4,16 exceeding 61:11 Excel 11:13 excuse 13:13 25:5 Executive 12:1 33:19 34:19 42:21 43:1,4 Exhibit 4:10,11 20:17,20 26:17,19 61:20,21,22 62:1 64:1 EXHIBITS 3:15 existed 57:8 exists 52:25 exonerated 54:3,14 expect 9:19 38:13 expectations 28:6,7 38:9,13 experience 73:2 explain 70:10 extent 4:16	facts 72:15 fair 8:3 28:9 29:7,10 34:15 45:14 64:15 fairly 39:6 falls 36:13 familiar 28:19 29:21,23 61:23 64:4 Fax 2:7,18 fear 67:17 feared 71:22 FED 1:14,18 Federal 1:22 feel 30:21 fell 14:3 35:2 felon 73:4 felt 12:20 35:11 53:25 72:2 74:12,13 ferret 4:20 Field 19:20 figure 13:21 file 12:4 26:5 28:17 52:17 67:24 73:8 filed 51:20 52:15 75:25 files 49:13 filings 51:18 69:18 final 59:10 60:6 find 34:10 40:21 53:4 54:8 61:2 findings 24:12 32:12 54:19 58:24 59:2 finds 73:4,10 finish 15:15 30:5 finished 9:12 fire 1:15,18 3:4 8:4 14:9 16:13,18 17:8,9,10,13,15 18:2,5 24:2 33:19,20, 21 39:1,16 41:25 59:4,12 62:18 68:6 69:1 76:1 firefighter 31:3 38:12,19 51:20 68:10 73:11 firefighters 68:6 firm 45:11 first-time 19:19 five-minute 48:23 Flanagan 75:13 Floor 1:22 2:16 10:15
E <hr/> earlier 21:1 25:21 26:9 29:20 44:20 47:25 57:25 58:10 60:22 61:16 72:1 77:4 early 45:6 easily 75:3 EEO 45:15 57:18,23 EEOC 12:5 43:13 effect 62:1,4,23 63:2 65:2 effectiveness 4:12 5:9 efforts 14:3,8,12 21:13,18,23 24:9, 17 27:15,23 28:3 29:1 32:21 34:2 37:24 44:16 45:25 46:14 50:7 53:14 55:23 62:22 63:21 64:1 65:8 75:14 elephant 50:23 eliminate 35:4 Elizabeth 2:10 Elizabeth.karpati@usdoj.gov 2:13 Email 2:7,8,13,18,24 emails 13:17 16:9 emotional 51:1 employee 51:2 55:18 56:24,25 57:3,7 employees 41:9 66:6 76:2 employment 2:5 23:13,19 encompassed 47:16,18 encourages 72:4 end 14:12 23:20 24:5,9,18,23 27:23 32:9 74:15 75:9,10 ended 29:12 36:24 37:4	EXHIBITS 3:15 existed 57:8 exists 52:25 exonerated 54:3,14 expect 9:19 38:13 expectations 28:6,7 38:9,13 experience 73:2 explain 70:10 extent 4:16	F <hr/> face 44:4

flowchart 12:10	grievances 15:7 18:15	Horton 11:12 20:25 21:6,7 22:20 23:17,19,22 24:7,12 26:24 29:1,3,18 32:8 34:12 37:14 41:11 43:10 45:12 53:18 60:23 62:24 63:6,10,22 74:8 75:5,12
focus 34:10	ground 8:21	HOU 60:18
follow 37:14 48:12 73:22	group 20:5	HOU2257 26:20
follow-up 25:11 28:24 38:15 47:8 48:20 53:21 58:2	guard 73:14	hour 14:1,5
form 74:19,24,25	guess 28:12 61:6 66:9 68:13 72:11	hours 11:9 47:14
formalize 52:15	guessing 25:16	housekeeping 4:8
formalized 52:15	guideline 12:3,21 25:10 35:2 36:14, 17,25 37:1 38:4,6 62:8,10,11,12	Houston 1:2,6,11,14,18,21,22 2:12, 14,16,17 10:15 38:12
formed 35:3	guidelines 34:24 36:6,7,8,10	HPD 57:3
forms 74:7	<hr/>	HR 11:22 12:19 14:1 41:12,16 43:14 44:4 45:3
forward 32:19 56:8	H	hypothetical 70:18 71:6
forwarded 64:14,24 73:21	hand 13:2	<hr/>
forwarding 56:22	handful 4:21	I
found 30:10	handle 15:7 73:17	identification 26:19
frame 44:21	handled 22:5 27:10 65:7	identified 13:12,13 21:24 22:1 50:12
front 8:2	handling 75:7	identify 11:19 34:3 75:2
fully 10:10	hands-on 44:14 45:13	II 2:22
funneled 33:1 48:3	happen 53:5	impacting 72:8
<hr/>	happened 69:7 70:20 72:16	implement 21:24 29:1 34:2 39:23 44:17 45:13 46:15 50:14 55:24 67:14
G	happening 26:6	implementation 23:6
gained 23:12	harassment 4:13 5:10 19:17 20:2 35:15 39:19 41:16,19 56:7 65:12 73:20	implemented 37:9 44:22 54:12 58:15 67:3,10
Garrison 23:21 24:2 27:12 28:2 33:2 34:22 59:13,19,20 60:4 76:13	hard 71:16	implementing 75:4,13
Garrison's 29:5,9	harm 73:5	improper 30:22 53:25 71:5
gave 12:11 72:14 76:9	head 13:18	improve 34:11,17 37:25 41:6
geared 14:20 38:24 45:6	hear 9:4	improving 37:8,15
gender 39:9	Hector 2:4	inappropriate 30:22
general 12:2,6 19:5,13,18 20:3 34:21 41:8,9 47:7 48:21 50:4,5 56:1, 9,14 57:9,14 58:2 59:10,19,24 64:14, 25 73:22 74:25 76:3 77:8	Hector.ruiz@usdoj.gov 2:8	incident 70:22
General's 59:7	hereto 1:23	include 75:16
generally 40:7	HFD 20:8 22:10 25:7 35:25 37:9,25 40:2 46:12 55:25 57:4 61:13	included 76:3
get all 70:3	HFD's 4:12 5:9 21:18 22:12 23:6 34:14	includes 17:20
give 9:23 10:14 17:2 30:1 40:7 51:9 54:9 61:21 67:16 68:8	high 60:24 61:6	including 75:20
good 4:1,3,6 35:11	higher 73:13	inconsistencies 35:1,5
Government 30:13 54:1 55:2	highest 62:18	increased 14:4
graph 76:9,10,12	hired 42:10	INDEX 3:1
great 29:3 39:13	history 14:17	
Gregory 2:22	hit 54:22	
	hold 18:1,4,5 20:8 28:8	

information 5:12 6:6 23:3 29:11
33:7,9 38:2,8 61:16 69:3,9 71:13
initial 22:23 65:18
initially 62:4 63:2
initiative 46:18 53:8
initiatives 52:5
inspections 17:16
inspector 12:2,6 17:22 19:5,13,18
20:3 34:21 47:7 48:20 50:4,5 56:1,9,
14 57:9,14 58:2 59:7,9,19,24 64:14,
24 73:22 74:25 76:3 77:8
inspectors 17:20,21
instance 1:19 69:16
instances 51:9 73:23
instituted 14:10 42:1 60:9 66:2
instructs 10:2
intake 74:6
integrity 68:18 69:4
intention 66:8
intentions 40:2
interrupt 59:5
interview 70:14
interviewing 70:13
investigate 18:25 19:15 20:4 54:2
56:15 57:12
investigating 30:19 46:16 47:20
54:20 58:1
investigation 28:16 29:15,25
30:10,11 46:11 54:8,18,21,25 56:10
58:18,21 59:8 68:19 70:2,6 71:4,8,12
74:15
investigations 17:16 18:15 29:10
54:5 67:16 69:5
investigative 57:19,24 58:3,19
investigator 20:9,10 28:18 29:22
58:17,19,23,24 74:2,3
Investigator's 58:20
investigators 17:23 18:22,25 19:6,
14,21 28:13 30:20 47:1,2,13 48:16
56:3,16,25 57:12,17,22,23 58:4,6
59:7 61:2
investigatory 19:3
involve 55:17
involved 24:5 42:9 43:15 44:24
51:24 58:20 65:17 69:2 76:1

involvement 15:21 23:18 25:6,25
26:3,13 42:5 59:16,18
involving 19:8,16
issue 51:1,10,13 52:1,19,20 54:10
68:23
issued 38:19 40:16
issues 45:15 50:20
items 25:1 31:15

J

JAMES 1:20
JANE 1:8 2:20
January 48:7
Jeremy 2:3 8:9
Jeremy.monteiro@usdoj.gov
2:7
Job 1:24
John 36:21
Juan 43:16
July 17:11 18:3,6,12 19:4
Junior 44:5 46:8
Justice 2:4,10 8:10

K

Karpati 2:10
Kelly 43:15
Kelvin 36:20
Key 33:23
Keyes 1:8 2:20 7:11
Keyes' 66:14
kind 4:19 13:18 19:2 20:24 27:24
43:14
knew 16:23 44:23 57:8 68:8
Knowing 43:13
knowledge 23:12 34:6,7 45:20

L

labor 35:11,12 39:25 46:19
lack 71:23
ladder 36:9

language 49:22,23 50:6 65:20 77:9
large 17:19
late 26:11
law 31:17 32:2,5 45:11 47:15 58:8
layer 59:9
layers 59:9
leadership 43:5,12,19,22 44:9
learned 73:16
leaves 36:14
left 49:11,12 72:25
Legal 1:21 2:16 46:24
Legalwatch 25:1 42:4,6,11 43:25
44:5
letter 49:15 53:19
letters 31:14
level 42:15 46:8 55:5 65:7
limited 34:6 36:21
lined 40:10
lines 51:11
listed 22:20 25:1 35:8 40:4 63:10
lists 40:25
litigation 2:5 10:23
location 68:6
locking 49:12
logged 49:10
long 9:20 11:7 17:10 20:10 25:5 35:6
41:13
looked 13:17 32:18
lost 71:17,20
lot 13:7 38:2 49:9
Louisiana 2:11
low-level 19:11 52:19
lower-level 19:18

M

machine 1:21
mad 28:21 52:17
made 34:13 49:9,12,21 51:11 53:18
63:21 66:25 77:4
main 72:17

maintain 4:23 71:11	met 35:11 50:1,4 74:24	non-disciplinary 55:8,13
maintaining 72:17	MICHELLE 1:15,18 3:4 8:4	non-formalized 53:2
major 53:15	mind 52:19	non-peace 53:24
make 9:10,11 28:9 35:13 38:7 39:25 40:10 41:24 50:5 51:6 52:22,24 58:21,24 60:2 65:21 70:17 74:6 75:14	minimize 50:13	non-serious 65:6
makes 56:24	minute 10:13 37:20 64:19	non-sus- 52:13
making 13:1 45:12	Mischaracterizes 45:17 67:4 71:25	non-sustained 50:10 51:4 52:6,14 53:17 60:21
man- 13:13	misconduct 50:11	nonetheless 50:12
manageable 76:19	modification 49:20 65:17,18	not-sustained 53:3
management 44:14 45:13	modifications 40:18	Notary 52:16
management's 23:23	modified 35:22,23 36:2 41:9,10 49:23 61:4,5,8,10 65:10,13,14,20,23	nother 73:3
manager 57:19 58:12	modify 21:18	notice 20:19 31:14 49:15,19 72:15
manner 28:10 73:4	moment 50:8	notices 49:14
manual 11:21,25 12:8,9,13 13:13 16:16 35:7 37:22,25 38:11,17 39:16 40:14 51:7 65:4,25 66:4,5	monitor 28:7	NPO 26:4
mark 54:22	Monteiro 2:3 3:5,8 4:1,4,6,19 5:1,3, 7,16,21,23,25 6:3,9,12,15,23 7:4,9, 15,17,20,23 8:3,8,9 13:3,5,11,12 15:17,20 30:7 31:6,21 37:11,13 45:21 46:22 47:3 48:14,22 49:1 55:11,12 64:11 66:12 75:23 76:22	Nuh-hm 44:12
marked 20:16 26:18 61:22	month 41:21	number 75:6,19 76:6,19
Marshal 1:15,18 3:4 8:4 17:9,10,15 18:2	motivated 29:6	numbered 1:19
Martinez 16:24,25 17:25 23:8 53:22 54:6 59:1 60:10	move 41:5 50:9 55:20	numbers 12:5 26:20 60:15,16
material 46:5	moved 19:5,14 34:22 52:1 56:1,3 57:9	<hr/> O <hr/>
materials 48:10	moving 32:19	O'GILVEY 33:1
matter 4:8 56:15 61:3	multiple 66:24	oath 10:6
matters 57:18,23	<hr/> N <hr/>	objection 4:20,23 5:23 6:2 30:24 31:18 37:10 45:17 55:9 67:4 71:5,25
Mayor 19:14 34:19 55:25 57:10 59:11	N.W. 2:5	occurred 6:5,17,25 7:6 13:19,20
Mayor's 12:1 19:6 34:22	NAHMAD@CLINE-AHMAD.	occurrences 50:13
McLeod 1:15,18 3:4 4:2 7:23 8:4 66:23	COM 2:24	occurs 50:11
means 10:7	Nasim 2:21	offenders 19:19
media 12:3	nature 4:20 14:8 17:3 19:20 36:9,15 38:9 46:5 48:1 55:19	offer 22:1
mediation 18:16 37:1	needed 12:20 52:20 59:15,25	offered 3:17
meet 36:23 50:22 59:23	needing 17:1	offering 4:15 15:10
meeting 23:21 24:23 27:24 32:9	negative 28:22	office 2:11 12:2,6,17 13:24 17:24 19:4,6,13 28:13 34:21,22 50:4 56:1,4, 9,14 57:8,9,13,14 64:14,24 73:21 76:2
member 32:10 50:17 63:14	newly-promoted 11:22,24 13:14, 22,25 14:10,18 15:12,23 40:13 44:18, 21 45:5,15,25 46:7 51:8	officer 13:22 14:10,18,21 15:12,23 40:13 44:18,21 45:6,15,25 46:7 62:9, 16,17,19 68:5
members 51:24 62:10,20	non-criminal 19:11 30:11,16	officers 11:22 13:14,25 28:12 47:13 51:8 53:24 58:17
membership 28:7		OIG 48:16 55:21,22 56:3,18 57:1 59:6,16,18 66:8 67:1,8 77:7
mentioned 21:1 29:20 30:15 35:18 36:6 47:25 57:25		

ongoing 50:20
online 40:11 48:11
open 49:11 72:2,4 73:19
operational 36:8
operator 51:15
opinion 30:25
opposed 31:17 39:8
order 9:9 12:1 34:19
ordered 49:16
orders 42:22 43:1,4 57:20 58:13
ordinance 58:22
orientation 35:16,20
original 66:3
originally 36:24
originated 76:2
oversee 17:16 18:15
oversees 17:25

P

P.30(b)(6) 1:14,18
P.L.L.C. 2:22
p.m. 1:20 48:24,25 66:19,20 77:15
package 68:25
packet 48:11
Padilla 43:16
pages 33:24 38:1
paperwork 14:21
paragraph 64:7
Parker 34:19 55:25
part 6:4,16,24 11:3 14:6 15:22 16:11
18:18 33:20 38:8 44:10 49:7 61:10
65:10 74:17
participate 40:12
participated 25:3
participation 26:8 36:21
parts 35:6
Pass 72:21 75:21
passed 48:4
past 54:6,9
Pat 33:1

PAULA 1:8 2:20
peace 28:12 47:13 58:16
peacefully 50:24 52:3
penalties 39:19
penalty 40:22
pending 9:24
Pennsylvania 2:5
people 28:8,21 36:19 39:4,5,6 42:25
49:11 69:2 71:21
percent 71:9
performance 28:8
period 18:10,21 25:24 45:4 63:25
66:9
periodically 41:15
permit 5:4,16
perpetrator 50:11
person 7:24 32:11 44:4 52:22 67:19
69:5,18,24 70:19,24 73:5
person's 37:3
personal 23:12 26:3 44:14 45:13
personnel 57:4
pertain 4:8
pertaining 34:13 39:18
pervasive 51:5,10
piece 14:25 16:2 45:3 53:13 66:10
68:20,22
Pitkin 2:23
place 25:2 26:7 27:10,12 39:19
places 36:3 49:15
Plaintiff 1:4,19 2:2
Plaintiff-intervenors 1:9
PLAINTIFFS-INTERVENORS
2:20
PLAIR 1:20
plan 18:16
planned 32:24
plans 32:20
point 32:18
policies 4:12 5:9 21:4,18 27:7
34:11,14,18,23 37:8,16 38:22 57:20
58:13
policy 12:3 15:5,10,22 22:10,12,14,
25 23:7 25:7,9 26:1,5,14 27:9,11
29:19 35:14 36:11 38:3 39:3 52:4,8,
12,24,25 53:6,16 61:13,17,18,21
62:4,6,7,8,23 63:2,21 64:6,23 65:2,22
poorly 74:11
portion 12:22 22:23 36:15
position 17:7 18:1,4,5 20:8 72:12,
16
positions 44:15
possibly 50:25
potential 73:12
potentially 6:7
Powerpoint 12:12
prac- 53:22
Practical 46:10
practice 28:15 29:7,12,21,23 30:12,
21 31:6,16,22,23,24 32:1 56:20 62:14
practices 4:12 5:9 21:4 27:7 58:19
74:14 75:14
preparation 13:16 16:11,14 27:4
prepare 11:11 16:14,21
prepared 7:24 27:21,22 34:4,7
76:12
preparing 11:4,7
prerequisite 44:15
present 4:22,24 6:8,18,21 7:2,7,13
16:5 22:18
presentation 14:23 51:11
presented 11:21 12:12,15 16:6
23:24 40:11 41:12 43:15,18,21 51:7
59:11,12
presenting 12:18
presents 59:4
pretty 28:17
prevent 7:10 26:6
prevents 10:9
previous 28:15 51:18
previously 22:13 26:18
primarily 45:8 53:1,3
primary 68:17
prior 13:6 14:11,15,18,22 15:20
18:2,6 20:7 24:9 27:16 28:11,13 43:7
45:15 53:17 54:15 69:7

privilege 4:18 5:5,17 6:13
privileged 6:10
problem 55:5
procedural 31:14
procedure 1:22 40:4,16,24 52:5,11
53:8,11,12 54:24 59:6 60:13 64:12
65:20
procedures 15:4 21:4,19 27:7
34:14 38:23
proceed 8:23
process 16:6 28:25 60:8,11 69:3
74:4
processing 46:12
produced 1:18 13:6
product 4:17 35:11
Professional 13:24 17:24
proffer 4:21
Program 51:2 52:8,12 55:18
progressing 58:21
project 37:5
promoted 20:13 28:4
promotion 44:15 46:4
proper 30:9,25 67:15
properly 54:13
prospectively 32:16
provide 31:7 32:3 39:16 64:1 65:8
71:2
provided 13:14 28:22 43:22 45:8
46:19,21 47:8,21 48:15 62:5,23
63:12,15 64:18 67:1 69:17
providing 33:9 69:7 70:1 71:3
72:13
provisions 1:22
psychologist 14:24
psychologists 51:3
public 72:19
published 24:13
pulled 11:17 12:24
punitive 54:10,25
purposes 11:1 26:19
pursuant 1:22
put 8:2 29:18 32:23,25 36:4 48:11,19

Q

question 5:4,17 6:8 7:3,8,14 9:4,5,
11,24,25 10:3 15:15 25:11 28:25 30:5
31:20 38:15,16 59:23 61:7 63:1 66:23
69:20 72:10
questions 4:21 6:22 7:25 8:25
10:3,22 14:2 22:6,15 23:9 66:13,15
72:22 74:20 76:23
quick 66:17,23

R

race 39:9 74:14
race-related 51:16
raise 36:9
rank 17:22
ranking 62:9,16,17,19
ranks 68:7
re- 8:16 37:11 69:9
read 9:6 62:11 69:1 77:13
real 66:16
reason 10:9 54:16 68:4,17 74:17
reasonable 61:1
reasons 67:2 68:16 74:23
recall 25:22 26:16
receive 19:23,25 40:8,9 41:14,15
44:6 56:5 57:18,23 71:16
received 44:9 48:13 63:18
receiving 24:14 65:16
recess 48:24 66:19
recommend- 60:2
recommendation 37:20 39:15
41:5,7 44:17 45:12 49:1 50:15 55:24
60:3
recommendations 21:24 32:12
33:23 34:2,4,13 37:7,14 46:15 75:5
record 1:22 45:18 48:23
red 38:10,16,22
reduce 75:15 76:13,18
Reeves 36:21
refer 51:2
reference 56:24 63:6 73:1

referenced 24:16 33:12
references 64:20
referencing 47:17 57:2
referral 55:17
referring 13:21
refers 66:6
reflected 24:23
refocus 26:5
regard 8:16 34:25 66:25 67:1,9
69:21 72:4
regs 12:21 25:17 34:25 35:1,4,25
36:13 40:23 46:4 48:6 65:19
regulations 35:24 40:3
relate 20:24
related 4:13 5:10 11:18 25:7 28:25
29:2 37:15 46:3 49:5 50:25 63:1
73:24
relates 15:5 22:11
relating 37:15
Relations 56:25 57:3,7
relative 61:6
release 24:22
released 24:12,18 43:2 75:12
religion 74:14
reluctant 68:8
rely 66:6
remedial 6:16
remember 25:16 43:7,20,23,24
44:10,11 47:11,12 48:18 51:16 66:3
remembering 61:15
remind 12:25 38:21
remotely 20:1
reoccurrence 7:10
repeat 50:13
rephrase 9:1 37:12 55:12
report 20:25 21:8 23:17,19 24:7,12
29:1 31:4 33:23 34:13 37:15 41:11
42:2,3 43:6,10 49:2 53:18 57:6 60:15,
19,23 63:6,11,23 65:11 74:18 75:12
reported 1:21
reporter 1:20 9:6
reporter's 3:11 9:8

represent 20:17 24:17	reviews 59:1	sharing 29:12,14 49:6
representative 10:21 11:1,4 23:5	revise 21:18 25:14	shift 36:22,23 42:15 48:8 61:12
represented 15:3	revised 25:8,9,17 35:8 39:24 65:18	shipped 25:9
REPRESENTING 2:2,14,20	revision 34:13	Shorthand 1:20
reprimand 55:15	Riesner 19:7	show 20:16 26:17 52:3 61:20
reps 12:5	rights 2:5 43:13,18 44:1,3 56:10,13 69:13	showing 26:17
requested 6:3,15,24 7:4,10	Road 2:23	Shreck 43:15
required 58:7	Robin 50:5	side 17:22 73:3,6,7
requirement 30:14	role 11:3	sign 52:16 77:13
requirements 47:18	room 50:23	Signature 3:10
requires 32:2	row 69:6 70:3,8	signed 38:19
resolution 18:16 36:25 50:18 52:2	rudeness 19:19 47:25	similar 50:6 59:14,22 74:25
resolving 46:12	Ruiz 2:4	simple 70:17 74:20
respect 4:10 22:14 23:19 25:25 26:14 37:7 52:5,6 53:16 61:17 62:6	rule 35:8,14,19 39:17 40:2,3	sir 23:11 24:3
respond 9:10,11 46:1	rules 1:22 8:22 12:21 25:17 34:25 35:1,4,23,25 36:13 40:2,23 46:4 48:6 57:20 58:13 65:19	sit 62:20
respondent 28:16,23 30:10 31:9 49:17 51:14 53:19 67:23 68:24 69:13 71:13 72:20 74:12	runs 33:23	sitting 11:20
response 6:4 7:5 20:18,25 21:9,19 22:21 23:24 24:6,15 31:23 39:22 41:10 42:1,3 43:9 53:18 57:5 63:22 70:4 72:13	S	situation 69:14
responses 11:13	scenarios 12:10,19 48:11	situations 68:14 74:1
responsibilities 17:12 18:13	section 23:14 44:13 46:1	Sky-eagle 36:23 37:4
responsibility 65:11	secured 49:13	slot 13:25 14:1
responsible 14:22 62:20	seeking 4:17	small 60:16
rest 34:8 76:10	segment 14:25 15:2	Smith 10:15
restate 9:5	self-accountability 38:14	Snell 22:24 27:22 63:14 75:13
restructured 55:25	send 20:3,4 50:18 73:13	social 12:3
result 6:16,25 32:2 68:3 74:7 75:4	Senior 11:23 28:14 43:25 44:7 47:2 58:18,20 62:19	some- 51:1
retaliate 72:20	seniors 17:21	sooner 14:16
retaliated 20:2	separate 14:15 36:3 38:10,11,18 43:19,20	sort 24:6 52:4 63:6
retaliation 19:17 20:2 28:20 35:15 56:8 65:12 67:17,18 68:13,15 71:23 72:25 73:17,18,19,24 74:21 75:18	Services 13:25 15:4 16:4 18:7,11, 14,22 19:3,11,15,23 20:8 25:8 30:20 33:10 47:1,22 49:11 50:2 53:23 56:3, 5,8 58:16,23 59:17 60:11 67:12,13 74:7 75:25 77:4	sorts 18:24
review 20:3 21:5,13,18 23:22,23 24:6 27:7,10,15 28:1 32:8 35:4 39:25 40:13 42:16,25 53:6 58:24 59:10 62:10,11,21 63:4 64:6,8 68:9 69:9	set 57:15	sounds 27:25
reviewed 11:12 12:23 13:16 16:9, 11 26:4 27:4 29:3 43:2 58:19	Seventh 10:15	SOUTHERN 1:1
reviewing 46:11 64:9	severity 59:24	speak 16:13,20
	sexual 35:16,19 41:18	special 62:7
		specialized 57:18 65:1
		specific 12:13 27:9,11 40:22
		specifically 42:1 69:12
		specifics 23:3
		spend 11:4,7
		spoke 16:25
		spot 36:4

spreadsheet 11:13 22:20 23:23
24:16,17,24 27:17,18,21,22 29:19
32:25 33:3 62:24 63:11

staff 13:24 15:4 16:4 17:17,19 18:7,
11,14,21,22 19:2,11,14,23 20:8 23:21
24:13 25:8 27:24 28:5 30:20 32:9,10
33:10,12,15,20 43:2,4 47:1,22 49:11
50:2 51:3 53:23 56:3,5,8 58:16,23
59:17 60:10 67:12,13 74:7 75:25 77:4

staffed 53:23 56:4,9

standard 60:24,25 61:5,8

Standards 13:24 17:24

start 49:12 73:15 76:20

started 13:23 14:7,19 15:9 16:8
33:4 38:2 53:22 54:7 60:11 75:13

starting 60:12

state 1:20 9:1 32:2,4 74:13

stated 1:22 74:18

statement 28:22 31:2,4,8 67:17,23,
25 68:8 69:7 71:2,3,9,11

statements 28:17 29:14 30:1,12
49:6 67:1,10 68:25 69:17,21,23 70:15
71:14,17,20,22 72:8,14,18 77:3

states 1:1,3 2:2,4,10 4:11 20:18

station 6:5,17 7:1,6,12 50:17 51:6,
7,10,12,24 62:9,18 65:7 68:6 69:1

stats 76:11

stenotype 1:21

step 10:12 64:19

steps 32:7

Stone 36:20 48:6

stopped 28:19 49:6

strategic 18:16

streamlined 35:9

Street 2:11,16 10:15

student 42:8

study 46:5

stuff 13:8 38:5

sub-questions 66:24

subparagraph 64:20

subtopic 21:3,10,12,17,21,23 22:7,
11 23:2 25:4,5 44:13 46:10

subtopics 20:24 23:13

suggest 6:7

Suite 2:11,23

Sullivan 2:15 3:7 4:16,24 5:2,6,12,
19,22,24 6:1,6,11,14,18 7:2,7,13,16,
19,22 8:1 13:1,4,7,10 15:15,18 30:5,
24 31:18 37:10 45:17 46:24 55:9
67:4,8 71:5,25 72:22,24 75:21 77:13

summary 27:1

superior 68:5

supervisor 68:12 73:8

supervisor's 65:11

supervisory 44:15

supplemental 33:7

supplementing 33:6

supposed 32:23

Suppression 28:14

suspend 55:3

suspension 40:8

sustain 74:16

sustained 50:16,19 53:20 54:3,8,9,
13,14

sustaining 60:24

sworn 1:19 8:5

synopsis 59:10

T

table 69:1

tactical 14:21 45:9

taint 71:4

tainting 71:7

taints 70:2,5

taking 8:11 9:8

talk 23:15

talked 37:21 44:20 49:5 60:22 77:4

talking 15:19 69:15,16 73:1

target 29:14

targeting 51:19

tasked 36:17

teaching 14:7,24

technique 58:3

techniques 57:19,24

Telephone 2:6,12,17,24

telling 70:11,12

ten 17:23

term 64:21

terminology 33:18 66:5

terms 14:18 25:4 34:1 60:3 64:18
65:2 66:1 69:5 72:11,12,16

Terry 36:20

testified 8:5 58:9 73:11

testify 16:24 21:9,14,21 23:4 34:1,4,
7

testifying 10:7,10 68:3

testimony 3:4 22:2 57:11 67:5
72:1,12

testing 46:6

Texas 1:1,21,22 2:12,17,23 10:16
47:14 58:8

text 42:21

thing 22:19 35:18 56:11

things 13:19,20 14:8 19:8,19 36:9,
14 38:9 46:5 48:1 55:18 70:4 71:23
73:21

thinking 76:15

Thompson 11:12 20:25 21:6 22:20
23:17,19,22 24:6,12 26:24 29:1,3,18
32:8 34:12 37:14 41:10 43:9 45:11
53:18 60:23 62:24 63:6,10,22 74:7
75:5,12

thought 15:25

Thursday 1:19

tie 35:16

time 5:13,15 8:19 11:4 12:16 15:19
18:10,21 19:8 20:13 24:4 25:24 27:19
32:15,18 44:21 45:4 46:24 47:5
56:19,22 59:13 60:12 66:9 70:12,14
71:4 72:15

timeline 13:18 14:6

times 33:13

title 18:8 46:16 47:12,20 48:15 58:1
67:18 73:24 75:17,18

titled 49:2

today 4:4 7:25 8:1,11,23 10:4,10
11:11,20 13:6,16 16:22 27:4 34:5

told 26:15 27:22 46:24 68:24

Tolerance 41:17

topic 4:10,15 16:8 20:23 21:15,17
22:2,9,18 25:6 27:6 34:10 41:5 47:9

<p>50:9 55:20 61:12</p> <p>total 75:19</p> <p>touched 37:19,20</p> <p>track 75:15</p> <p>train 28:7 63:21</p> <p>trained 28:13,18 29:22 47:13 48:9 58:4</p> <p>training 4:13 5:10 11:22 12:8,9 13:13,23 14:10,18 15:10,12,22,23 22:10,14,24 23:5 24:14 25:1,6,25 26:14 38:8,11,20 39:17 40:13 41:6,8, 10,12,15,16,18,19,25 42:4,6,13,14,19 43:5,12,14,19,22 44:5,9,14,19,22 45:13,15,25 46:7,11,18,20 47:6,8,16, 17,21,24 48:10,13,15 55:17 57:18,23, 25 58:7 61:13,17 62:5,22 63:3,7,12, 18 64:1,4,17,18 65:1,8,15</p> <p>transcript 9:10</p> <p>transfer 36:10 73:13</p> <p>treat 39:5,6 73:9</p> <p>treating 39:4</p> <p>trip 51:6</p> <p>truth 71:9</p> <p>truthful 71:8,21</p> <p>truthfully 10:7,10 68:3</p> <p>Tuesday 22:5</p> <p>turned 59:19 73:5</p> <p>tying 35:14</p> <p>type 15:18 59:22 67:18 74:14,23</p> <p>types 75:2</p>	<p>unfairly 70:2,5 73:9</p> <p>unfounded 54:3,14</p> <p>unit 56:25 57:3,8,19 58:13 62:9</p> <p>United 1:1,3 2:2,4,10 20:18</p> <p>units 30:18</p> <p>unsure 20:1</p> <p>update 12:19 34:23 39:16</p> <p>updated 12:21 34:19,21 36:7</p> <p>updating 36:17,25</p> <hr/> <p style="text-align: center;">V</p> <p>Vague 31:18</p> <p>values 38:24 39:1</p> <p>verify 53:13</p> <p>version 12:13,14,23 22:11 23:6 25:14</p> <p>versus 65:6</p> <p>VII 46:16 47:20 48:15 58:1 67:18 73:24 75:17,18</p> <p>violated 57:21 58:14</p> <p>violating 40:3</p> <p>violation 35:8 52:24 59:25</p> <p>violations 39:17 40:25 41:3 59:14 64:13</p> <hr/> <p style="text-align: center;">W</p> <p>wait 9:11</p> <p>Wanda 12:18 14:1,12,22,24 16:16 22:1,4,13 40:12 42:9 43:16 50:18 51:6,11</p> <p>wander 49:12</p> <p>wanted 23:24 28:2,6 71:10 76:13 77:11</p> <p>Washington 2:6</p> <p>ways 50:23</p> <p>webinars 47:7,8,9 48:20 58:1</p> <p>week 25:5</p> <p>witnessed 28:21</p> <p>witnesses 68:3,7 72:20</p> <p>Woodlands 2:23</p> <p>work 4:17 37:21 50:24 52:3 68:11</p>	<p>worked 57:7</p> <p>working 33:4 37:4</p> <p>workplace 4:13 5:10 35:15,19 41:8,9 50:10 73:9</p> <p>write 59:10 73:12</p> <p>written 52:4 55:15 74:11</p> <hr/> <p style="text-align: center;">Y</p> <p>year 25:16 75:10</p> <p>years 8:20 12:15 41:18</p> <hr/> <p style="text-align: center;">Z</p> <p>ZIP 10:17</p>
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